

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

NO. 78-12222

Priority: June 18, 2004

Maximum Diversion Rate: 0.03 CFS

This is to certify, that LAIRD PROCTOR  
PO BOX 279  
GARDEN VALLEY ID 83622

has applied for a permit to appropriate water from:

**Source:** SPRING

**Tributary:** MARTIN 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> |
|-----------------------|----------------------|--------------------------|
| STOCKWATER            | 01/01 to 12/31       | 0.03 CFS                 |
| WILDLIFE              | 01/01 to 12/31       | 0.03 CFS                 |

**LOCATION OF POINT OF DIVERSION:**

SPRING SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$  Sec. 32, Twp 20N, Rge 02E, B.M., ADAMS County

**PLACE OF USE:** STOCKWATER & WILDLIFE

| Twp Rge Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|             | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 20N 02E 32  |    |    |    |    |    |    |    |    |    |    | X  |    |    |    |    |    |        |

**CONDITIONS OF APPROVAL**

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2009**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
5. Stockwater use is for 100 range cattle.
6. The use authorized under this right shall not exceed 13,000 gallons per day.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 27<sup>th</sup> day of October, 2004.

  
for KARL J DREHER, Director

agree to the wing  
Application changes.

8/27/04 Date

Ident. No.

78-12222  
RECEIVED

RECEIVED

OCT 15 2004

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

JUN 18 2004

DEPARTMENT OF  
WATER RESOURCES

DEPARTMENT OF WATER RESOURCES

To appropriate the public waters of the State of Idaho

1. Name of Applicant Laird Procter Phone 208 462-3143  
Mailing address P.O. Box 279 Garden Valley ID 83627
2. Source of water supply Spring which is a tributary of stays on property??
3. Location of point of diversion is Township 20N Range 02E Sec. 32 in the SW  $\frac{1}{4}$ ,  
NW  $\frac{1}{4}$ , SW  $\frac{1}{4}$ , Govt. Lot Adams, B.M., Adams County;  
additional points of diversion if any: \_\_\_\_\_
4. Water will be used for the following purposes:  
Amount .03 CFS for stockwater/wildlife 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) 1.03 CFS and/or (b) \_\_\_\_\_  
cubic feet per second acre feet per annum
6. Proposed diverting works: Trough spring  
a. Describe type and size of devices used to divert water from the source Drain rock and  
pipes to small 40 foot x 10 foot x 5 deep holding "pond" stockwater  
b. Height of storage dam None feet; active reservoir capacity \_\_\_\_\_ acre-feet; total  
reservoir capacity \_\_\_\_\_ acre-feet  
c. Proposed well diameter is No 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? No; Drilling firm \_\_\_\_\_;  
Well was drilled for (well owner) \_\_\_\_\_; Drilling Permit No. \_\_\_\_\_
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):  
a. Hydropower; show total feet of head and proposed capacity in kW. \_\_\_\_\_  
b. Stockwatering; list number and kind of livestock. 100 cattle on property  
c. Municipal; show name of municipality. None  
d. Domestic; show number of households. None  
e. Other; describe fully. \_\_\_\_\_

9. Description of place of use:

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

| TWP | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | TOTALS |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| ZON | 02E | 32  |    |    |    |    |    |    |    |    | S  |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

Total number of acres to be irrigated \_\_\_\_\_

10. Describe any other water rights used for the same purposes as described above. Applying to  
4 other rights same property

11. a. Who owns the property at the point of diversion? Myself

b. Who owns the land to be irrigated or place of use? Myself

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: Develop spring #5 on map, pipe to low spot next  
to existing logging road, overflow to natural drainage.  
Drain rock and pipe with a Corp. of Engineers  
permit

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.

[Signature]  
 Signature of Applicant (and title, if applicable)

Received by M Date 6-18-04 Time \_\_\_\_\_ Preliminary check by DAN  
 Fee \$ 100.00 Received by M # CD 74251 Date \_\_\_\_\_  
 Publication prepared by sk Date 9-16-04 Published in THE RECORD  
 Publication approved sk Date 10-6-04

T20N R02E S32 NWSW

TROUGH SPRNG

NO  
G-00-T  
NOTS  
DAN

8-30-04

78-12222

Now  
Starting  
Right Side  
of file.



**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](http://www.idwr.idaho.gov)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

October 28, 2004

LAIRD PROCTOR  
PO BOX 279  
GARDEN VALLEY ID 83622

RE: Permit No. 78-12222

**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.

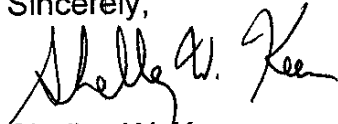
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being more prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

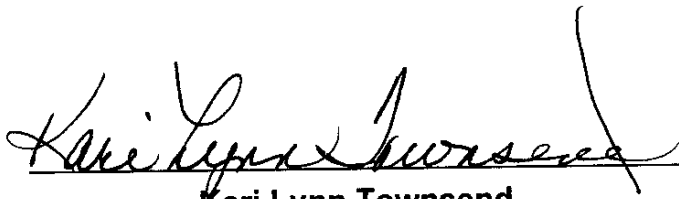
**CERTIFICATE OF SERVICE**

I hereby certify that on October <sup>29<sup>th</sup></sup> 28, 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.**

**78-12222**

**LAIRD PROCTOR  
PO BOX 279  
GARDEN VALLEY ID 83622**

  
**Kari Lynn Townsend  
Secretary**

**EXPLANATORY INFORMATION  
TO ACCOMPANY A  
PRELIMINARY ORDER**

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "**Preliminary Order**" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below.

**PETITION FOR RECONSIDERATION**

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

**EXCEPTIONS AND BRIEFS**

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

**REQUEST FOR HEARING**

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

**ORAL ARGUMENT**

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

## **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**

**78-12222**

**1. dnelson 8/31/2004 Comment/Analysis**

Comment: This application is for stockwater and wildlife. The water will be collected in from a spring and diverted to a watering trough. The applicant states that the spring sinks or doesnt leave the property, however, the close proximity to Martin Creek makes it obvious that it is actually tributary to Martin Creek. The applicant filed four water rights on four separate systems for similar water ponds and troughs. There are no other significant overlapping water rights.

**2. kwalker 10/20/2004 Permit Review**

Comment: Application falls within Salmon Clearwater Moratorium area but can be considered under domestic exemption. Recommend approval.

**FORMATION**

**LEGAL NOTICE**

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

78-12222

LAIRD PROCTOR

PO BOX 279

GARDEN VALLEY ID 83622

Point(s) of Diversion SWNWSW S32 T20N R02E ADAMS County

Source SPRING

Tributary To MARTIN CREEK

Use: STOCKWATER 01/01 To 12/31 0.03 CFS

Use: WILDLIFE 01/01 To 12/31 0.03 CFS

Total Diversion: 0.03 CFS

Date Filed: 06/18/2004

Place Of Use: STOCKWATER

T20N R02E S32 NWSW

Place Of Use: WILDLIFE

T20N R02E S32 NWSW

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region,

2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 10/04/2004. The

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

KARL J DREHER, Director

The Adams County Record  
 PO Box R  
 Council, ID 83612  
 (208) 253-6961 Fax: (208) 253-6801

RECEIVED

OC 04 2004

WATER RESOURCES  
 WESTERN REGION

# Invoice

| DATE      | INVOICE # |
|-----------|-----------|
| 10/01/'04 | 11078     |

**BILL TO:**

Idaho Dept. of Water  
 2735 Airportway  
 Boise, ID 83705  
 ATT: Sue

| P.O. NUMBER | TERMS | PROJECT |
|-------------|-------|---------|
|             |       |         |

| QUANTITY | DESCRIPTION                                                       | RATE         | AMOUNT   |
|----------|-------------------------------------------------------------------|--------------|----------|
| 1        | Legal Notice for Laird Proctor 78-12221 9/16<br>Water application | 94.71        | 94.71    |
| 1        | Legal Notice for Laird Proctor 78-12221 9/23                      | 81.18        | 81.18    |
| 1        | Legal Notice for Laird Proctor 78-12222 9/16 Water<br>application | 69.30        | 69.30    |
| 1        | Legal Notice for Laird Proctor 78-12222 9/23                      | 59.40        | 59.40    |
| 1        | Legal Notice for Laird Proctor 78-12223 9/16 Water<br>application | 78.54        | 78.54    |
| 1        | Legal Notice for Laird Proctor 78-12223 9/23                      | 67.32        | 67.32    |
| 1        | Legal Notice for Laird Proctor 78-12224 9/16 Water<br>application | 99.33        | 99.33    |
| 1        | Legal Notice for Laird Proctor 78-12224 9/23                      | 85.14        | 85.14    |
|          | Sales Tax                                                         | 6.00%        | 0.00     |
|          |                                                                   | <b>TOTAL</b> | \$634.92 |

**Kreger (Taylor), Sue**

---

To: eleitzin@idfg.state.id.us

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

September 8, 2004

ERIC LEITZINGER, IDFG  
PO BOX 25  
BOISE ID 83707

Re: Applications for Permit

Dear Eric:

There are copies of four applications this time. 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 October 4, 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



78-12221.pdf



78-12222.pdf



78-12223.pdf



78-12224.pdf

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

September 08, 2004

**Legal Notice Department**  
RECORD  
PO BOX R  
COUNCIL ID 83612

RE: Application for Permit Nos. 78-12221, 78-12222, 78-12223, and 78-12224

**Dear LEGAL NOTICE DEPARTMENT:**

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 10/04/2004. 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:

78-12222

LAIRD PROCTOR  
PO BOX 279  
GARDEN VALLEY ID 83622

Point(s) of Diversion SWNWSW S32 T20N R02E ADAMS County Source SPRING  
Tributary To MARTIN CREEK

Use: STOCKWATER 01/01 To 12/31 0.03 CFS

Use: WILDLIFE 01/01 To 12/31 0.03 CFS

Total Diversion: 0.03 CFS

Date Filed: 06/18/2004

Place Of Use: STOCKWATER

T20N R02E S32 NWSW

Place Of Use: WILDLIFE

T20N R02E S32 NWSW

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 10/04/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in The Record on September 16 and 23, 2004.