

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 57-11663

Priority: September 29, 2004

Maximum Diversion Rate: 0.66 CFS

This is to certify, that J & M CATTLE INC
2312 E HARBOUR GROVE DR
NAMPA ID 83686

has applied for a permit to appropriate water from:

Source: GROUND WATER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
COMMERCIAL	01/01 to 12/31	0.66 CFS

LOCATION OF POINTS OF DIVERSION:

GROUND WATER SW¼SE¼NE¼ Sec. 13, Twp 01S, Rge 03W, B.M., OWYHEE County

GROUND WATER SW¼NE¼SE¼ Sec. 13, Twp 01S, Rge 03W, B.M., OWYHEE County

PLACE OF USE: COMMERCIAL

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01S 03W 13			X	X									X	X			

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. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. Commercial use is for calf feeding operation.
6. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable county zoning and use ordinances.
7. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 57-11663

8. 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 14th day of December, 2004.


FOR KARL J DREHER, Director

RECEIVED

DEC 13 2004

Ident. No. 57-11663

FORM 202
12/99

DEPARTMENT OF
WATER RESOURCES
STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

AMENDED

agree to the following
application changes.

9/28/04 Date

- Name of Applicant J & M CATTLE INC. Phone 208-495-1075
Mailing address 2312 E. Harbour Grove Dr. Nampa, ID. 83686
- Source of water supply Ground water which is a tributary of _____
- Location of point of diversion is Township 01S Range 03W Sec. 13 in the SW 1/4, Existing well
SE 1/4, NE 1/4, Govt. Lot _____, B.M., owyhee County;
additional points of diversion if any: 18. 3W. Sec. 13 SWNE SE (Proposed)
- Water will be used for the following purposes:
Amount 0.44.66 for stock water purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount " for COMMERCIAL 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)
- Total quantity to be appropriated is (a) 0.44.66 c.m. and/or (b) 268 AFA
cubic feet per second acre feet per annum
- Proposed diverting works:
a. Describe type and size of devices used to divert water from the source Wells
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? _____
e. If well is already drilled, when? _____; Drilling firm _____;
Well was drilled for (well owner) _____; Drilling Permit No. _____
- Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)
- 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. 14. 2,000 hd Beef / Dairy Replacement Hfrs.
c. Municipal; show name of municipality. _____
d. Domestic; show number of households. _____
e. Other; describe fully. ROW FLUSHING, BOTTLE CLEAN-UP
~ 14,000 GPD ~ 6000 GPD

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	
15	3W	13			S	S									S	S			
					C	C									C	C			

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. 57-7245 for 3,000 hd cattle. This Application is for additional 3,000 cattle
11. a. Who owns the property at the point of diversion? J & M CATTLE INC. COMMERCIAL USES
- b. Who owns the land to be irrigated or place of use? J & M CATTLE INC.
- 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: water per head based on 1,000 lb. Beef Animal
Flow rate estimated for anticipated instantaneous
flow rate demands for commercial uses
described.

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.

Pres. Jon Mortensen
 Sec. Tres. Que Fullmer

Jon Mortensen Pres.
 Signature of Applicant (and title, if applicable)

Received by Craig Saxto Date 4-9-04 Time 10:45 Preliminary check by CS
 * Fee \$ 300. Receipted by CS # W031505 Date 4-9-04
 Publication prepared by sk Date 5-19-04 Published in OA
 Publication approved sk Date 7-7-04

(#W031505)

10-20-04
4-8-04 sk

(#W032263)

\$50 Amendment Fee
received 9/29/04

* \$250 for appl
\$50 for ownership changes

REQUEST TO PROCESS

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

Name of Applicant

J & M CATTLE INC.

Mailing Address

2312 E. Harbour Grove Dr.
Nampa, ID. 83686

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.

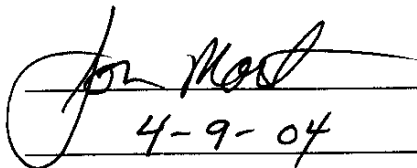
☐ PROPOSE MITIGATION NOW

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.

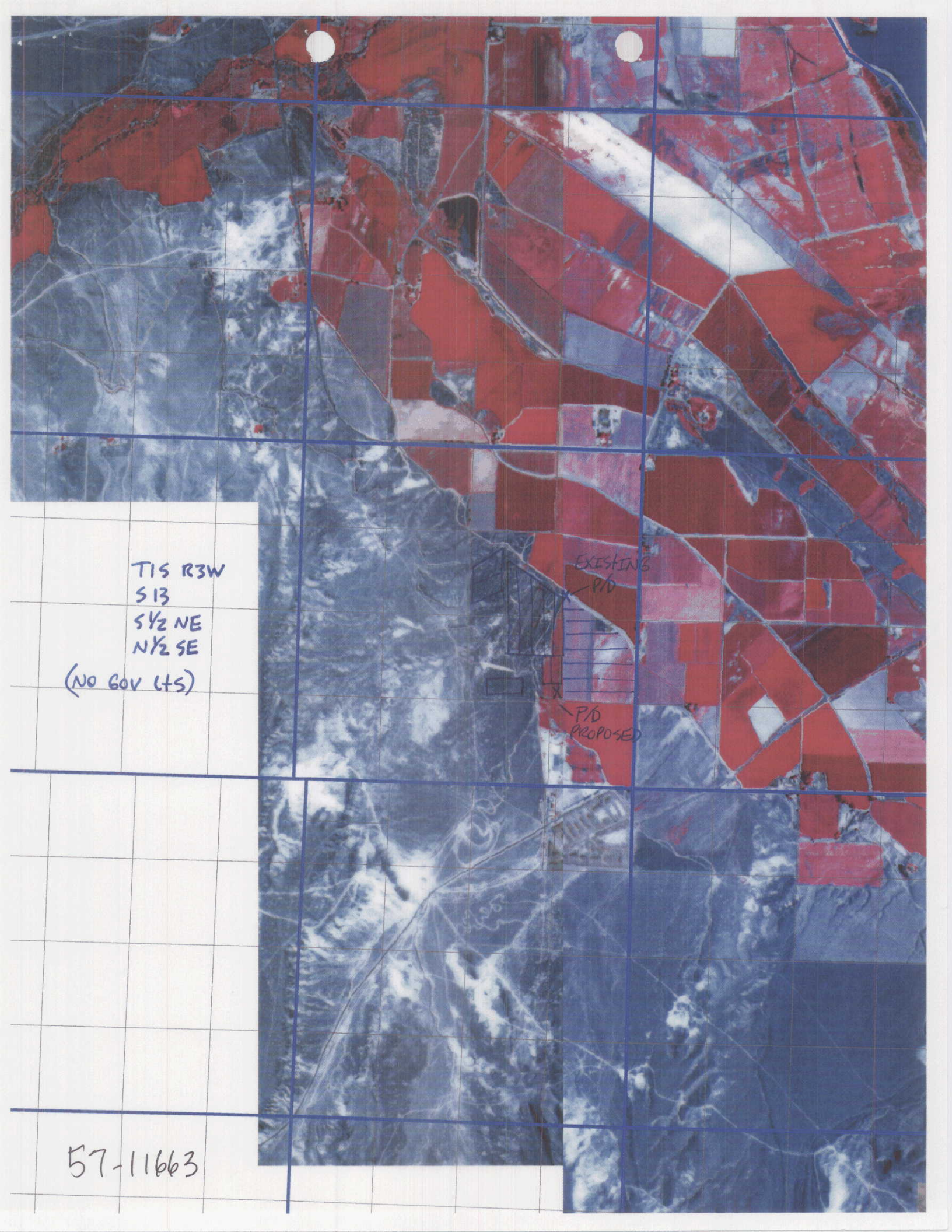
Signature


4-9-04

Date

Please return this form to:

Idaho Dept. of Water Resources
Western Regional Office
Attn: Dan Nelson
2735 Airport Way
Boise, ID 82705-5082



TIS R3W
S13
5 1/2 NE
N 1/2 SE

(NO GOV LTS)

EXISTING

P/D

P/D
PROPOSED

57-11663

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 14, 2004

J & M CATTLE INC
2312 E HARBOUR GROVE DR
NAMPA ID 83686

RE: Permit No. 57-11663

Permit Approval Notice

Dear Permit Holder:

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

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

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

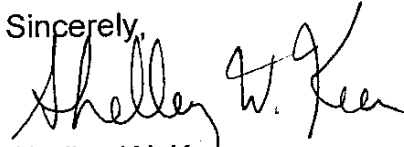
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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 being the most prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

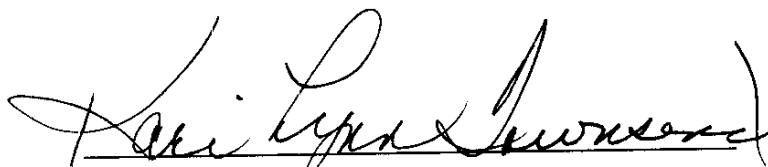
CERTIFICATE OF SERVICE

I hereby certify that on December 14, 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.

57-11663

**J & M CATTLE INC
2312 E HARBOUR GROVE DR
NAMPA ID 83686**

A handwritten signature in black ink, reading "Kari Lynn Townsend", written over a horizontal line.

**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

57-11663

1. scurtis 10/6/2004 Legal Notice Remarks

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

2. Igraves 5/4/2004 Comment/Analysis

Comment: Decree 57-7245 also uses the existing well in the SWSENE for 3000 stock. A new well has also been proposed for a total of two wells serving the feedlots commercial and stockwater uses. This application was originally filed and advertised for 3000 additional stock. Applicant then decided to amend the application to cover the commercial uses associated with 3000 stock and file for additional stock later if necessary. The cattle are beef and/or dairy replacement heifers. One stock assumes a 1000 lb animal unit. At times, there may be greater than 3000 calves at the feedlot, however calves drink less water than a 1000 lb cow so licensed volume can be maintained. Commercial uses include bottle washing and row flushing. Applicant also has permit 57-11630 for a separate feedlot in section 24. Water from Reynolds Irrigation District is used for irrigation. No other rights are used.

3. Igraves 8/11/2004 Legal Notice Remarks

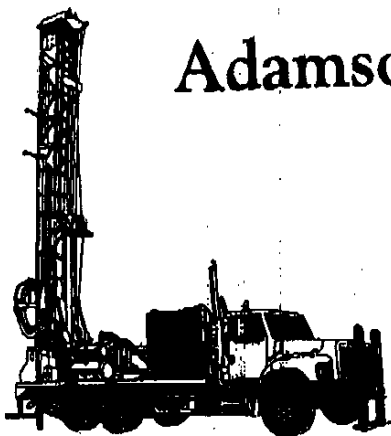
Comment: Previously advertised for stockwater use. Amended to commercial use.

4. Igraves 12/9/2004 Comment/Analysis

Comment: Additional Info: The CAFO Siting Teams site suitability determination for this proposed dairy calf raising facility was low risk. Notification of DEQ, Dept. of Ag and Owyhee County was requested. Letters from these entities are included in the application file. Also requested was an evaluation of the effect the proposed diversion will have on the local aquifer and neighboring wells. Adamson Pump & Drilling addressed this request in a letter dated 12/8/04 also included in the application file.

5. kwalker 12/13/2004 Permit Review

Comment: Application is for calf feeding operation which will include row flushing estimated at 14,000 gpd and bottle clean-up estimated at 6,000 gpd. DEQ sent in letter stating this system is not under their jurisdiction. Recommend approval.



Adamson Pump & Drilling Company

Pumps - *Dave Adamson* - Wells

1320 Smith Avenue - Nampa, ID 83651

208-466-6439 - Fax 208-466-0008

December 8, 2004

Attn: Lori Graves
Idaho Dept of Water Resources
2735 Airport Way
Boise, ID 83705

Re: JM Cattle proposed new well

Dear Ms. Graves:

Mr. John Mortensen of JM Cattle has requested that we contact you concerning his request for a new well. This well would be located in 1S, 3W, section 13. There are limited homes and population in this area except for Mr. Donald Martin. His well, D0031893, was drilling in 2004 to 384' with a production rate of 150+ g.p.m. This current well is at least 1000' away for the proposed new well. To the best of our knowledge, this new well should have little or no impact on Mr. Martin's well.

Please feel free to contact our office if you have any questions or concerns.

Sincerely,

Dave Adamson

Dave Adamson
Owner/Driller



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1445 North Orchard • Boise, Idaho 83706-2239 • (208) 373-0550

December 2, 2004

Lori Graves
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Post-it® Fax Note 7671		Date 12/1/04	# of pages 1
To LOM	From STEVE RAE		
Co./Dept. IDWR	Co. DEQ		
Phone #	Phone # 373-0162		
Fax # 334-2348	Fax #		

RE: Revised Comments: Water Right No. 57-11663 in the name of J+M Cattle Inc.
Application for Permit to Appropriate the Public Waters of the State of Idaho

Dear Ms. Kreger:

Per my telephone conversations with you and Joe Baldwin from this Department, I have revised my original comments regarding this application.

Commercial Water Supply

This facility does not serve 25 or more people over 60 days per year, which is the criteria that is used to determine if a new water system must be designed and tested as a public drinking water system. Therefore, the siting and construction of this well are not subject to the Department's review and approval. Also, the well water will not be subject to initial and ongoing monitoring requirements and it may be unsafe to drink.

We recommend that all water fixtures be marked as "nonpotable", and that NSF-61 approved bottled water be provided for all visitors and employees.

If you have any questions, please contact me at (208) 373-0162, or via e-mail at srae@deq.state.id.us.

Sincerely,

Stephen H. Rae, P.E.
Staff Engineer

SHR:vee G:\Engineering\Srae\Reviews\Planning and Zoning Comments\IDWR-REV-57-11663-J+M Cattle Inc_11-23-04.doc

cc: Charles W. Ariss, P.E., Regional Manager-Engineering, Boise Regional Office
File 24, Manager's File, Reading 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.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 15, 2004

EDWARD FRISBIE
11802 WALKING PLOW LN
MELBA, ID 83641

RECEIVED

NOV 16 2004

WATER RESOURCES
WESTERN REGION

RE: Water Right Permit 57-11630 and Application 57-11663

Dear Mr. Frisbie:

The Department of Water Resources acknowledges receipt of your protest to the water right permit and application referenced above. Unfortunately, the protest period has passed and the Department cannot accept your protest for these cases.

The protest period for water right 57-11630 ended on December 1, 2003 and the application was approved on January 21, 2004. The protest period for amendment of application 57-11663 ended on November 8, 2004. Your protest letter and the filing fee were not received by the Department until November 12, 2004. We are returning your protest letter and your check no. 2152 in the amount of \$50.

If you have additional questions, please feel free to contact the Department.

Sincerely,

for Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

c: Lori Graves – IDWR, Western Region (include copy of protest letter)

RECEIVED

NOV 12 2004

DEPARTMENT OF
WATER RESOURCES

November 7, 2004

Idaho Department of Water Resources
P.O. 83720
Boise, Idaho 83720

Re: Water Application 57-11630
57-11663
J&M Cattle Inc
S13T1S3W

Attn: Lori Graves

I am writing in opposition to the above application. The water on this site has not been used for over 10 years. With the shut down of wells upstream how can a new use be granted. Also how long can a valid claim be active with no use. The original use was for a maximum of 3,000 hd feed lot. There is a current application by the subject for a 15,000 hd calf feeding operation before the Owyhee County P & Z. We have 4 wells within a mile of the subject and there is a fear of a draw down of the current water table and possible contamination. Another question is – if there was an active or good well for 3,000 head, why is a new well necessary?

Idaho Power should have records to verify if there was an active use.

If there is a hearing, I would like to have a time, date and place.

Sincerely,



Edward Frisbie
11802 Walking Plow Ln.
Melba, Idaho 83641
208-495-2191

EDWARD D. FRISBIE
BARBARA J. FRISBIE
208.495.2191
11802 WALKING PLOW LN
MELBA, ID 83641

NOV 12 2004

2152

92-358/1241
910

Date 11-7-04

Pay to the

Order of

Idaho Dept Water Resources

\$ 50⁰⁰

Dollars



Security features
are included.
Details on back.

D.L. EVANS
BANK

(208) 342-2225
345 West State Street
Boise, Idaho 83703
24-HOUR EXPRESS BANKING
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For 5711630

Edward Frisbie

MP

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IDAHO STATE DEPARTMENT OF AGRICULTURE

ENGINEERING SERVICES



November 8, 2004

RECEIVED

NOV 09 2004

WATER RESOURCES
WESTERN REGION

Ms. Lori Graves
Sr. Water Rights Agent
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

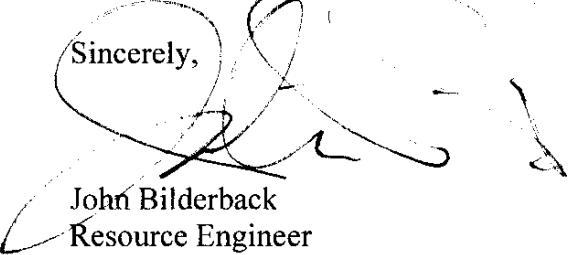
Dear Ms. Graves,

The Idaho State Department of Agriculture ("ISDA") has inspected J&M Cattle Company (Mr. Jon Mortenson's) facility located at Upper Reynolds Road, SW of Melba, ID, Section 13, 1 South, 3 West.

At the time of the inspection, the facility is in compliance with ISDA rules. Future expansions and changes of the facility will be reviewed and inspected by ISDA to ensure continued compliance.

If you need anything else, please let me know.

Sincerely,


John Bilderback
Resource Engineer

cc: J&M Cattle Company, Jon Mortenson
cc: ISDA J&M Cattle Company File

"Serving consumers and agriculture by safeguarding the public, plants, animals and the environment through education and regulation."

ISDA Engineering Services • PO Box 790 • Boise, ID 83701 • (208) 332-8665 • (208) 334-3637 (Fax)



OWYHEE COUNTY
Post Office Box 128
Murphy, Idaho
83650

RECEIVED

NOV 08 2004

WATER RESOURCES
WESTERN REGION

Phone: (208) 495-9851

Fax: (208) 495-2051

4 November 2004

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

Re: Application for Permit ID #57-11663

Dear Ms. Kreger:

Thank you for the opportunity to comment on the J&M Cattle Inc. application to appropriate the public waters of the State of Idaho.

J&M Cattle has applied for a conditional use permit to establish a calf feeding operation on the property described in the application. As of this date, no decision has been issued. I respectfully request that any permit issued by your agency approving appropriation of water for the use described be allowed under the condition that the operation show proof of compliance with Article II of the Owyhee County Code (zoning ordinance) prior to the commencement of water use.

(condition 082)

Sincerely,

A handwritten signature in cursive script that reads "Kay Kelly-Breach".

Kay Kelly-Breach
Planning & Zoning Administrator

cc: J&M file

The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

RECEIVED
NOV 02 2004
WATER RESOURCES
WESTERN REGION

I, Joe E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the publisher of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

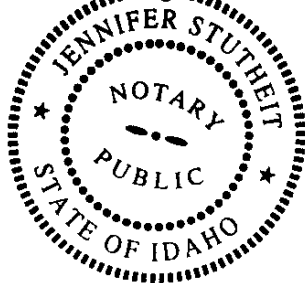
OCTOBER 20, 27, 2004

SIGNED: _____

STATE OF IDAHO }
COUNTY OF OWYHEE }

On this 27th day of October in the year of 2004 before me, a

Notary Public, personally appeared JOE E. AMAN
known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Jennifer Stutheit
Notary Public of Idaho
Residing at HOMEDALE, IDAHO
My commission expires: JANUARY 3, 2009

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

57-11663

J & M CATTLE INC
2312 E HARBOUR GROVE
DR

NAMPA ID 83686

Point(s) of Diversion SWSENE
S13 T01S R03W OWYHEE
County Source GROUND
WATER

Point(s) of Diversion SWNESE
S13 T01S R03W OWYHEE
County Source GROUND
WATER

Use: STOCKWATER

Use: COMMERCIAL 01/01 To
12/31 0.66 CFS

Total Diversion: 0.66 CFS

Date Filed: 09/29/2004

Place Of Use: COMMERCIAL
T01S R03W S13 SWNE SENE
NESE NWSE

Place Of Use: STOCKWATER

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

Previously advertised for
stockwater use. Amended to
commercial use.

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 Way, Boise ID 83705
together with a protest fee of
\$25.00 for each application on
or before 11/08/2004. The
protestant must also send a copy
of the protest to the applicant.

KARL J DREHER, Director

10/20,27/04



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

RECEIVED

NOV 01 2004

WATER RESOURCES
WESTERN REGION

1410 North Hilton • Boise, Idaho 83706-1255 • (208) 373-0502

Dirk Kempthorne, Governor
Toni Hardesty, Director

October 27, 2004

Ms. Lori Graves, Senior Water Agent
Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, ID 83705-5082

Re: J&M Cattle expansion

Dear Ms Graves:

This letter is to inform you that the Department of Environmental Quality (DEQ) is working with Jon Mortenson, J&M Cattle to insure that all relevant water quality and environmental standards are met at the proposed facility expansion project. DEQ participated in a site visit to the facility as a member of the CAFO Site Advisory team and was a co-signer on the site suitability determination letter to Mr. Mortenson.

If you need additional information, please contact me at 373-0248.

Sincerely,

A handwritten signature in cursive script that reads "Joe Baldwin".

Joe A. Baldwin, P.G.
Hydrogeologist
Technical Services

JAB:ab

c: CAFO Files
COF

Jon's Copy

August 18, 2004

To: Ms. Kay Kelly, Planning and Zoning Administrator
Owyhee County
Post Office Box 128
Murphy, Idaho 83650

From: Jon Mortensen, Property owner

Subject: Additional information requested my Mr. John Bilderback, ISDA

Dear Ms. Kelly;

I am providing additional information as requested by Mr. John Bilderback, letter dated August 10, 2004, to be used by the Idaho State CAFO Siting Team. This information is provided following the format of the CAFO Siting Advisory Team Request form for questions 4 through 14 as follows:

4. Water Right Information

Water right and usage for the 180 acres were established with the prior use of the property as a cattle feeding lot. The Idaho Water Resources on February 15, 1916 issued a domestic water permit and on May 27, 1979 issued a water permit for a 3,000 cattle feed lot, see **Conditional Use Permit Application (CUP) Attachment No. A.**

5. Vicinity Map with site location

The planned structures and site improvements for the calves' feeding area, location of a metal building for the mixing and storage of milk, designated parking area, existing location of wells, compost area, vicinity location and location of lagoon ponds for animal waste are shown on the Site Layout Map, see **(CUP) Attachment No. D.**

The subject property is located outside of the FEMA flood zone mapped area and not included in the designated 100 year flood plain area, see **Attachment "FEMA Flood Map" page 5.**

Information concerning wells within one mile of the subject property was obtained from the Idaho Department of Water Resources for wells permitted since 1987 and all licensed property, see **(CUP) Attachment No. E.** Also, a Site Map is provided that shows the projects location and land use improvements within a one mile radius, see **Attachment "Site Map", page 6.**

The water sources that exist on the site include the Bernard Ditch and the Reynolds Creek Irrigation Lateral as shown on the Site Layout Map. There are no other water sources in the vicinity that would affect the subject property.

A Contour Map at one foot intervals is provided of the subject property lying south of the Reynolds Creek Irrigation Lateral, see **Attachment "Contour Map", page 7.**

FROM :

FAX NO. : 2084952051

SEP. 13 2004 10:54AM P2

09/07/2004 14:20 FAX

002


**IDAHO STATE DEPARTMENT
OF AGRICULTURE**
ENGINEERING SERVICES

RECEIVED
SEP 03 2004
**DEPT. OF ENVIRONMENTAL QUALITY
TECHNICAL SERVICES OFFICE**

September 3, 2004

Ms. Kay Kelly
Planning and Zoning Administrator
Owyhee County
PO Box 128
Murphy, ID 83650-0128

RE: J&M Cattle, CAFO Siting Team Site Suitability Determination

Dear Ms. Kelly:

The Idaho State CAFO Siting Team has completed its review of the application for J&M Farm's proposed dairy calf raising facility, located in Township 1 South, Range 3 West of Section 13 in Owyhee County. The review was completed in response to a request made by the Owyhee County Commissioners in accordance with IDAPA 02.04.18.

The Team, consisting of representatives from the Idaho Department of Environmental Quality (IDEQ), Idaho Department of Water Resources (IDWR), and the Idaho State Department of Agriculture (ISDA) performed a site evaluation (from 1:30 PM to 2:30 PM) on August 30, 2004. A final review meeting was conducted on the same day and again on September 2, 2004.

The information evaluated for this facility included the application package provided by Owyhee County, IDWR well log information and water right records, IDWR State-wide Ambient Ground Water Quality Monitoring Program network data, IDEQ data, ISDA Regional Agricultural Ground Water Quality Monitoring Program data, well driller reports and discussion with Jon Mortenson (the owner/operator) during the site review.

The following technical factors contributed in determination of the rating.

- The proposal is for a new dairy calf raising facility. The number of animal units being proposed is 3,000 Animal Units. Using a 200-pound average, the total capacity of the proposed facility is approximately 15,000 calves.
- A Nutrient Management Plan was not included nor evaluated because Owyhee County did not require a plan to be submitted as part of the application.
- The proposed facility will control 80 irrigated acres.
- There appears to be adequate water rights for the stock water use. Additional water rights or transfers will be needed for the industrial/commercial use for this facility. Issues involving water availability are matters to be heard and decided on by IDWR in a separate water right process prescribed by law. Upon completion of the water right and transfer process, IDWR will make a final determination.

"Serving consumers and agriculture by safeguarding the public, plants, animals and the environment through education and regulation."

ISDA Engineering Services • PO Box 790 • Boise, ID 83701 • (208) 332-8665 • (208) 334-3637 (Fax)

FROM :

FAX NO. : 2084952051

Sep. 13 2004 10:55AM P3
10603

09/07/2004 14:27 FAX

- Average precipitation is 11 inches per year. Groundwater recharge is primarily from precipitation, canals and irrigation.
- The groundwater table and first encountered water in the local area varies from 78 (in $\frac{1}{4}$ NW $\frac{1}{4}$ SE of Section 13) to greater than 514 feet (in $\frac{1}{4}$ NE $\frac{1}{4}$ NE Section 13) below ground surface. This indicates significant variability in the groundwater level in this section.
- The general regional groundwater flow direction is presumed to be north to northeast towards the Snake River.
- Groundwater quality data within the area suggest median nitrate concentrations to be between 0 and 2 parts per million in the local area and are stable or decreasing.
- The nearest 303(d) listed water body is the Snake River which is located approximately 2 miles northeast and down gradient from the proposed facility. This section of the Snake River has an approved TMDL (completed by DEQ 2003, approved by EPA, January 2004) for nutrients, specifically Total Phosphorus.
- Liquid wastewater including runoff from the facility will be contained within waste storage ponds (to be built). The wastewater will evaporate or be land applied on the 80 acres owned by the calf raising operation.
- Solid waste will be composted on-site or directly land applied.
- Odor Control. The lagoons will contain wastewater from the milk facility, flushing of the calf hutch alleys and any runoff from the facility. With properly maintained composting practices, odors can be minimized. Because the proposed facility is planning on flushing the hutch alleys, odors may be greater than a traditional scrape waste system. Additional methods of odor control may need to be implemented.
- Pest Control. The facility will implement pest control practices.
- The CAFO Siting Team did not review any information regarding air quality. For a more specific evaluation of air quality concerns, please contact the regional IDEQ office.

A critical concern from the data used for this site evaluation is the number of down gradient domestic wells, which are estimated to be older wells and more vulnerable to contamination. The presence of these wells makes it absolutely necessary to ensure all waste containment is adequately built to meet all the current regulations and standards. The producer must have any new wastewater containment structures approved by ISDA including berms prior to use.

The final facility engineering and site plans must be submitted to ISDA for final approval before construction can commence. The engineering plans for this facility will need to be completed by a Professional Engineer if a flushing waste system design is implemented. Additionally, ISDA will ensure the waste containment and animal housing activities are a minimum of 100 feet from a well or residence.

The following recommendation is based on the information supplied to the team through the producer and site-specific conditions at the time of the evaluation. However, information used for evaluating the ground water, geology and soils is based on regional information and may not fully characterize the local conditions affecting the specific facility. Any changes or modification in the application or at the site may alter the Suitability Determination. The Suitability Determination, as determined by the Team, is Low Risk.

"Serving consumers and agriculture by safeguarding the public, plants, animals and the environment through education and regulation."

ISDA Engineering Service, • PO Box 790 • Boise, ID 83701 • (208) 332-6665 • (208) 334-3177 fax,

FROM :

FAX NO. : 2084952051

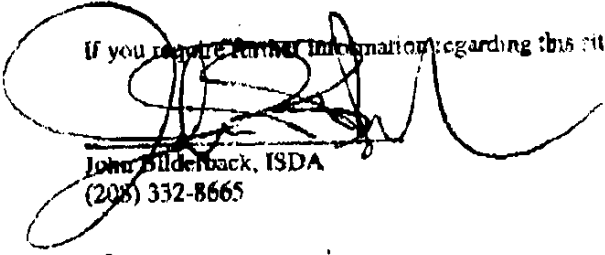
OCT 13 2004 10:55 AM PG 12/04

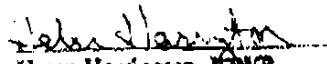
00:07:2004 14:28 FAX

The following individuals were present at the CAFO Site Team evaluation. The names depicted in bold type are the individuals responsible for the suitability determination.

1. **John Bilderback, ISDA, Resource Engineer**
2. Craig Tesch, ISDA, Hydrogeologist
3. **Joe Baldwin, IDEQ, Senior Environmental Hydrogeologist**
4. Dennis Owsley, Environmental Hydrogeologist
5. Kathryn Dallas, Environmental Hydrogeologist
6. Mike Ingham, Water Quality Science Officer
7. **Helen Harrington, IDWR, Technical Hydrogeologist**
8. Lori Graves, IDWR, Senior Water Right Agent
9. Kay Kelly, Owyhee County Planning and Zoning Administrator
10. Jon Mortenson, Owner/Operator

If you require further information regarding this site determination, please feel free to contact us.


John Bilderback, ISDA
(208) 332-8665


Helen Harrington, IDWR
(208) 327-7950


Joe Baldwin, IDEQ
(208) 373-0248

ATTACHMENTS

1. IDEQ produced map (including animal units in the area, public water systems, residential wells, irrigated acres and population)
2. IDWR nitrate concentrations map

"Serving consumers and agriculture by safeguarding the public, plants, animals and the environment through education and regulation."

ISDA Engineering Services • PO Box 790 • Boise, ID 83701 • (208) 332-8665 • (208) 334-3637 (Fax)



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

October 18, 2004

OWYHEE COUNTY PLANNING & ZONING
PO BOX 128
MURPHY ID 83650

Dear Sir:

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 November 8, 2004.

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

Sincerely,

Sue Kreger
ID Dept Water Resources
Western Region
334-2190



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

October 18, 2004

COCOA
PO BOX 463
MARSING ID 83639

Re: Water Right Application

Enclosed is a copy of an application(s) that may be of interest to you. Please review the application(s) 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 you desire 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 November 8, 2004.

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Sue', is written over a horizontal line.

Sue Kreger
Administrative Assistant

Encl. Copy of Application



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

October 18, 2004

ID DEPT OF AG
PO BOX 790
BOISE ID 83701

Dear Sir:

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.

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Sincerely,

A handwritten signature in cursive script, appearing to read 'Sue', is written over a horizontal line.

Sue Kreger
ID Dept Water Resources
Western Region
334-2190

Kreger (Taylor), Sue

To: srae@deq.state.id.us
Subject: comment letters

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

October 18, 2004

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

Re: Applications for Permit Nos. 57-11663 and 57-14495

Dear Mr. Rae:

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

If your agency and/or a local District Health office desires to file a formal protest against approval of any of these applications, a written protest along with the \$25.00 protest fee for each application protested must be received in this office by November 8, 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



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

October 18, 2004

J & M Cattle, Inc.
2312 E Harbour Grove Dr.
Nampa ID 83686

Re: Application For Permit 57-11663

Dear Jon:

Your application for permit is being processed by the Idaho Department of Water Resources (IDWR). Additional information is needed for complete evaluation of the proposal.

When reviewing an application for permit, *Idaho Code* § 42-203A(5) requires IDWR to consider the following information:

(a) That it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho.

Most of the above information is satisfied by the permit application. However, the following items are needed regarding the availability of water and local public interest concerns relating to large livestock feedlot or dairy operations:

1. Information evaluating the effect your proposed commercial diversion will have on the local aquifer and on neighboring wells.
2. Written acknowledgment from the County, Idaho Department of Agriculture and Idaho Department of Environmental Quality that you have contacted them and are working towards compliance with their requirements concerning your proposal.

Date

Page 2

Please submit the requested information to allow final evaluation of your application to be completed. You may seek additional time to provide the information by making a written request to delay or interrupt processing. Your written response including the requested information, or a request for more time to seek the information, must be received within thirty (30) days of the date of this letter. The application will be removed from the records of this agency without a timely reply.

IDWR forms and other information are available on the Internet at www.idwr.state.id.us . Please contact me at 208-334-2190 if you have any questions. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori Graves", written in a cursive style.

Lori Graves

Sr. Water Resource Agent

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

October 18, 2004

Legal Notice Department
OWYHEE AVALANCHE
PO BOX 97
HOMEDALE ID 83628

RE: Application for Permit No. 57-11663

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 11/08/2004. 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:

57-11663

J & M CATTLE INC
2312 E HARBOUR GROVE DR
NAMPA ID 83686

Point(s) of Diversion SWSENE S13 T01S R03W OWYHEE County Source GROUND WATER

Point(s) of Diversion SWNESE S13 T01S R03W OWYHEE County Source GROUND WATER

Use: STOCKWATER

Use: COMMERCIAL 01/01 To 12/31 0.66 CFS

Total Diversion: 0.66 CFS

Date Filed: 09/29/2004

Place Of Use: COMMERCIAL

T01S R03W S13 SWNE SENE NESE NWSE

Place Of Use: STOCKWATER

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

Previously advertised for stockwater use. Amended to commercial use.

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 Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 11/08/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Owyhee Avalanche October 20 & 27, 2004.



IDAHO STATE DEPARTMENT
OF AGRICULTURE

ENGINEERING SERVICES



September 3, 2004

Ms. Kay Kelly
Planning and Zoning Administrator
Owyhee County
PO Box 128
Murphy, ID 83650-0128

RE: J&M Cattle, CAFO Siting Team Site Suitability Determination

Dear Ms. Kelly:

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The following technical factors contributed in determination of the rating.

- The proposal is for a new dairy calf raising facility. The number of animal units being proposed is 3,000 Animal Units. Using a 200-pound average, the total capacity of the proposed facility is approximately 15,000 calves.
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"Serving consumers and agriculture by safeguarding the public, plants, animals and the environment through education and regulation."

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"Serving consumers and agriculture by safeguarding the public, plants, animals and the environment through education and regulation."

The following individuals were present at the CAFO Siting Team evaluation. The names depicted in bold type are the individuals responsible for the suitability determination.

1. **John Bilderback, ISDA, Resource Engineer**
2. Craig Tesch, ISDA, Hydrogeologist
3. **Joe Baldwin, IDEQ, Senior Environmental Hydrogeologist**
4. Dennis Owsley, Environmental Hydrogeologist
5. Kathryn Dallas, Environmental Hydrogeologist
6. Mike Ingham, Water Quality Science Officer
7. **Helen Harrington, IDWR, Technical Hydrogeologist**
8. Lori Graves, IDWR, Senior Water Right Agent
9. Kay Kelly, Owyhee County Planning and Zoning Administrator
10. Jon Mortenson, Owner/Operator

If you require further information regarding this site determination, please feel free to contact us.

John Bilderback, ISDA
(208) 332-8665

Helen Harrington, IDWR
(208) 327-7950

Joe Baldwin, IDEQ
(208) 373-0248

ATTACHMENTS

1. IDEQ produced map (including animal units in the area, public water systems, residential wells, irrigated acres and population)
2. IDWR nitrate concentrations map

The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

I, Joe E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the publisher of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

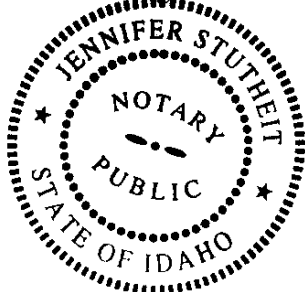
AUGUST 18, 25, 2004

SIGNED: _____

STATE OF IDAHO
COUNTY OF OWYHEE }

On this 30th day of August in the year of 2004 before me, a

Notary Public, personally appeared JOE E. AMAN
known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Jennifer Stutheit
Notary Public of Idaho
Residing at HOMEDALE, IDAHO
My commission expires: JANUARY 3, 2009

The following application(s)
have been filed to appropriate
the public waters of the State
of Idaho: ✓
57-11663

J & M CATTLE INC
2312 E HARBOUR GROVE
DR
NAMPA ID 83686
Point(s) of Diversion SWSENE
S13 T01S R03W OWYHEE
County Source GROUND
WATER
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S13 T01S R03W OWYHEE
County Source GROUND
WATER

Use: STOCKWATER 01/01 To
12/31 0.66 CFS

Total Diversion: 0.66 CFS

Date Filed: 04/09/2004

Place Of Use: STOCKWATER
T01S R03W S13 SWNE SENE
NESE NWSE

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

Previously advertised on 07/07/
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Protests may be submitted based
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Idaho Code. Any protest against
the approval of this application
must be filed with the Director,
Dept. of Water Resource, West-
ern Region, 2735 Airport Wy,
Boise ID 83705 together with
a protest fee of \$25.00 for each
application on or before 09/07/
2004. The protestant must also
send a copy of the protest to the
applicant.

KARL J DREHER, Director
8/18,25/04

RECEIVED

AUG 31 2004

WATER RESOURCES
WESTERN REGION

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

August 12, 2004

Legal Notice Department
OWYHEE AVALANCHE
PO BOX 97
HOMEDALE ID 83628

RE: Application for Permit No. 57-11663

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 09/07/2004. 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:

57-11663

J & M CATTLE INC
2312 E HARBOUR GROVE DR
Nampa ID 83686

Point(s) of Diversion SWSENE S13 T01S R03W OWYHEE County Source GROUND WATER

Point(s) of Diversion SWNESE S13 T01S R03W OWYHEE County Source GROUND WATER

Use: STOCKWATER 01/01 To 12/31 0.66 CFS

Total Diversion: 0.66 CFS

Date Filed: 04/09/2004

Place Of Use: STOCKWATER

T01S R03W S13 SWNE SENE NESE NWSE

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

Previously advertised on 07/07/04 and 07/14/04 with incorrect protest deadline.

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 09/07/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Owyhee Avalanche on August 18 and 25, 2004.

The Owyhee Avalanche

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

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)
) ss
COUNTY OF OWYHEE)

I, Joe E. Aman, being first duly sworn, depose and say:

1. That I am a citizen of the United States of America, and at all times hereinafter mentioned was and now over the age of twenty-one years, not a party to nor interested in the proceedings hereinafter mentioned.

2. That during the time of publication of the notice hereinafter mentioned, I was and now am the publisher of The Owyhee Avalanche, a newspaper of general circulation printed and published weekly, on Wednesday of each and every week, in the City of Homedale, County of Owyhee and State of Idaho.

3. That the said The Owyhee Avalanche has been printed and published continuously and uninterruptedly in said County during a period of more than seventy-eight weeks prior to the first publication of the attached notice.

4. That said notice of which a printed copy, taken from said newspaper, is hereto affixed, was published in the regular issue thereof, and not a supplement thereto, in said newspaper, in TWO (2)
(consecutive) calendar weekly issue(s) of said newspaper, in the following date(s):

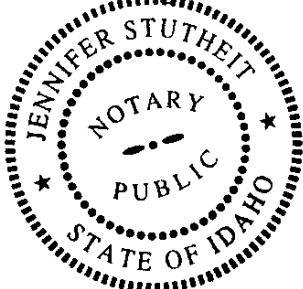
JULY 7, 14, 2004

SIGNED: _____

STATE OF IDAHO }
COUNTY OF OWYHEE }

On this 4th day of August in the year of 2004 before me, a

Notary Public, personally appeared JOE E. AMAN
known or identified to me to be the person whose name subscribed to the within instrument, and being by me duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Jennifer Stutheit
Notary Public of Idaho
Residing at HOMEDALE, IDAHO
My commission expires: JANUARY 3, 2009

The following application(s) have been filed to appropriate the public waters of the State of Idaho: 57-11663

J & M CATTLE INC
2312 E HARBOUR GROVE DR

NAMPA ID 83686

Point(s) of Diversion SWSENE
S13 T01S R03W OWYHEE
County Source GROUND WATER

Point(s) of Diversion SWNESE
S13 T01S R03W OWYHEE
County Source GROUND WATER

Use: STOCKWATER 01/01 To 12/31 0.66 CFS

Total Diversion: 0.66 CFS

Date Filed: 04/09/2004

Place Of Use: STOCKWATER
T01S R03W S13 SWNE SENE NESE NWSE

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 06/07/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

7/7,14/04

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

June 30, 2004

Legal Notice Department

OWYHEE AVALANCHE

PO BOX 97

HOMEDALE ID 83628

RE: Application for Permit No. 57-11663

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 07/26/2004. 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:

57-11663

J & M CATTLE INC
2312 E HARBOUR GROVE DR
NAMPA ID 83686

Point(s) of Diversion SWSENE S13 T01S R03W OWYHEE County Source GROUND WATER

Point(s) of Diversion SWNESE S13 T01S R03W OWYHEE County Source GROUND WATER

Use: STOCKWATER 01/01 To 12/31 0.66 CFS

Total Diversion: 0.66 CFS

Date Filed: 04/09/2004

Place Of Use: STOCKWATER

T01S R03W S13 SWNE SENE NESE NWSE

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 ~~06/07~~ 7-26/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Owyhee Avalanche on ~~7-1-04~~ 7-7-14, 2004.

re-ad

OWYHEE COUNTY
Planning & Zoning
Post Office Box 128
Murphy, Idaho 83650

Phone: (208) 495-9851
Fax: (208) 495-2051

20 May 2004

RECEIVED

MAY 24 2004

Sue Krueger
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

WATER RESOURCES
WESTERN REGION

Re: J&M Cattle Inc./Application for Permit/ID#57-11663

Dear Ms. Krueger:

I am in receipt of your letter of May 14, 2004 regarding the above-numbered Application for Permit to appropriate the public waters of the State of Idaho.

The description of the proposed use on the application, stock water for 3,000 head of beef/dairy replacement heifers, indicates that J & M Cattle must obtain approval via a conditional use permit prior to establishing that size of cattle feeding operation in Owyhee County.

If you have any questions, please contact us.

Sincerely,



Kay Kelly
Planning & Zoning Administrator

cc: John Mortensen
Que Fullmer
Idaho Department of Agriculture



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

May 19, 2004

J & M Cattle Inc.

Attn: Jon Mortenson

2312 E Harbour Grove Dr.

Nampa ID 83686

Re: Application For Permit 57-11663

Dear Mr. Mortenson:

Your application for permit is being processed by the Idaho Department of Water Resources (IDWR). Additional information is needed for complete evaluation of the proposal.

When reviewing an application for permit, *Idaho Code* § 42-203A(5) requires IDWR to consider the following information:

(a) That it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho.

Most of the above information is satisfied by the permit application. However, the following items are needed regarding the availability of water and local public interest concerns relating to large livestock feedlot or dairy operations:

1. Information evaluating the effect your proposed stockwater diversion will have on the local aquifer and on neighboring wells.
2. Written acknowledgment from the County, Idaho Department of Agriculture and Idaho Department of Environmental Quality that you have contacted them and are working towards compliance with their requirements concerning your proposal.

J & M Cattle Inc.

5/19/2004

Page 2

Please submit the requested information to allow final evaluation of your application to be completed. You may seek additional time to provide the information by making a written request to delay or interrupt processing. Your written response including the requested information, or a request for more time to seek the information, must be received within thirty (30) days of the date of this letter. The application will be removed from the records of this agency without a timely reply.

Please contact me at 208-334-2190 if you have any questions. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lori Graves".

Lori Graves

Sr. Water Resource Agent



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

May 14, 2004

ID DEPT OF AG
PO BOX 790
BOISE ID 83701

Dear Sir:

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 7, 2004.

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

Sincerely,

Sue Taylor
ID Dept Water Resources
Western Region
334-2190



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

May 14, 2004

OWYHEE COUNTY PLANNING & ZONING
PO BOX 128
MURPHY ID 83650

Dear Sir:

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 7, 2004.

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

Sincerely,

Sue Kreger
ID Dept Water Resources
Western Region
334-2190



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

May 13, 2004

COCOA
PO BOX 463
MARSING ID 83639

Re: Water Right Applications

Enclosed is a copy of an application(s) that may be of interest to you. Please review the application(s) 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 you desire 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 June 7, 2004.

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

Sincerely,

A handwritten signature in cursive script, appearing to read 'Sue', written in black ink.

Sue Kreger
Administrative Assistant

Encl. Copy of Application

Kreger (Taylor), Sue

From: Kreger (Taylor), Sue
Sent: Thursday, May 13, 2004 4:37 PM
To: 'srae@deq.state.id.us'
Subject: COMMENT LETTER

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

May 13, 2004

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

Dear Mr. Rae:

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

If your agency and/or a local District Health office desires to file a formal protest against approval of any of these applications, a written protest along with the \$25.00 protest fee for each application protested must be received in this office by June 7, 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



57-11663.pdf