

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 55-13848

Priority: January 04, 2005

Maximum Diversion Rate: 0.20 CFS

This is to certify, that STATE OF IDAHO
DEPT OF LANDS
954 W JEFFERSON
PO BOX 83720
BOISE ID 83720-0050

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: ROCK 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	0.20 CFS

LOCATION OF POINT OF DIVERSION:

SPRING SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 24, Twp 09S, Rge 02W, B.M., OWYHEE County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
09S 02W 24							X										

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **March 01, 2007**.
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. Stockwater use is for 800 range cattle.
5. This right, when considered with all other rights common to the same grazing allotment, is limited to the quantity of water beneficially used by the number of stock within the allotment.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 17th day of March, 2005.


for KARL J DREHER, Director

FORM 202

Ident. No.

55-13848

12/89
RECEIVED

DEPARTMENT OF
STATE OF UTAH
WATER RESOURCES

JAN 6 4 2005

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

WATER RESOURCES
WESTERN REGION

To appropriate the public waters of the State of Idaho

1. Name of Applicant Idaho Department of Lands Phone 334-0200
Mailing address 954 W Jefferson Boise ID 83720
2. Source of water supply unnamed spring 684' NE of Sam Noble which is a tributary of Rock Creek
3. Location of point of diversion is Township 09S Range 02W Sec. 24, in the SE 1/4,
SW 1/4, NW 1/4, Govt. Lot _____, B.M., Owyhee County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
- Amount 0.20 cfs for stockwater purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
- Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.20 cfs and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source spring will be diverted from a
spring box to a stocktank
- b. Height of storage dam NA feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet
- c. Proposed well diameter is NA 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? NA; Drilling firm _____;
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
- a. Hydropower; show total feet of head and proposed capacity in kW. NA
- b. Stockwatering; list number and kind of livestock. cattle (800)
- c. Municipal; show name of municipality. NA
- d. Domestic; show number of households. NA
- e. Other; describe fully. _____

3. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- 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	
09S	02W	24							SE										

Total number of acres to be irrigated 0

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

11. a. Who owns the property at the point of diversion? Idaho Department of Lands

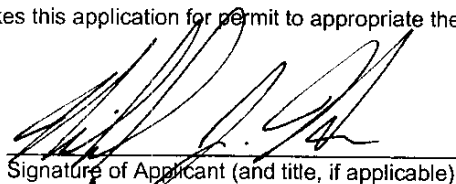
b. Who owns the land to be irrigated or place of use? Idaho Department of Lands

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 Right 55-13823 overlaps the place of use but is from a different water source and supplies a different point of use (see map)

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 of Applicant (and title, if applicable)

Resource manager - Range Sr.

Received by DAN Date 1-4-04 Time 12:00 Preliminary check by DAN

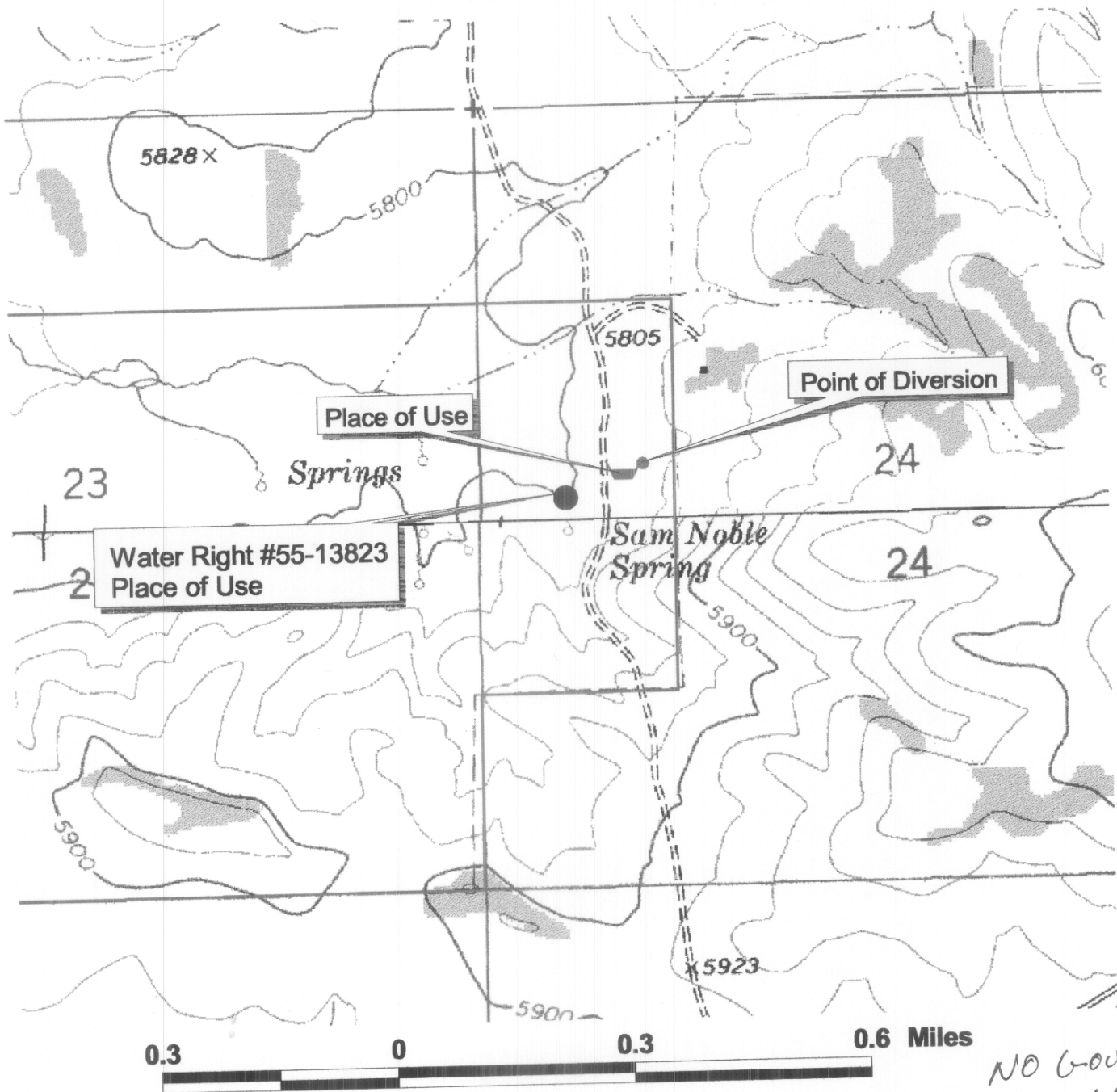
Fee \$ 100.00 Receipted by DAN FOR M # C075566 Date 10-25-04

Publication prepared by sk Date 1-19-05 Published in _____

Publication approved sk Date 3-7-05 **OWYHEE AVALANCHE**

Township 09S, Range 02W

Section 24 SESWNW



NO GOV'T
LOTS

- Springs.shp
- Stock Tanks
- Township
- Endowment Land



55-13848

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

March 18, 2005

STATE OF IDAHO
DEPT OF LANDS
954 W JEFFERSON
PO BOX 83720
BOISE ID 83720-0050

RE: Permit No. 55-13848

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.

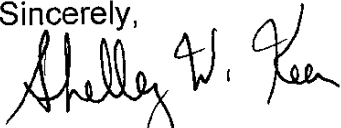
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 the most prominent.

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

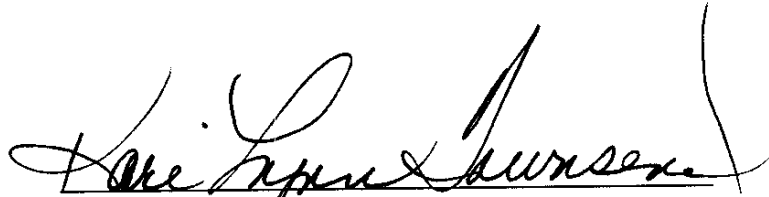
CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2005 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.

55-13848

**STATE OF IDAHO
DEPT OF LANDS
954 W JEFFERSON
PO BOX 83720
BOISE ID 83720-0050**

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

**Kari Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

(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

55-13848

1. dnelson 1/7/2005 Comment/Analysis

Comment: This application is for stockwater for 800 head of range cattle. This application is under the 13,000 gallon per day usage, so no request to process is required. The only overlapping water right is 55-13823, but it is from a different source and supplies a different stock tank. It may supply some of the same cattle at certain times of the year. The applicants wish to develop a spring and divert the water to a single stock tank to avoid damage to the spring area.

2. kwalker 3/16/2005 Permit Review

Comment: Application not located in any problem areas. No water district.
Recommend approval.

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):

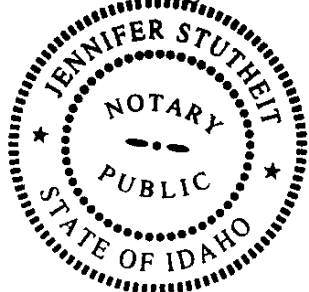
FEBRUARY 16, 23, 2005

SIGNED: _____

STATE OF IDAHO }
COUNTY OF OWYHEE }

On this 23RD day of Feb. in the year of 2005 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:
55-13848 ✓

STATE OF IDAHO
DEPT OF LANDS
954 W JEFFERSON
PO BOX 83720
BOISE ID 83720-0050
Point(s) of Diversion SESWNW
S24 T09S R02W OWYHEE
County Source SPRING
Tributary To ROCK CREEK
Use: STOCKWATER 01/01 To
12/31 0.2 CFS
Total Diversion: 0.2 CFS
Date Filed: 01/04/2005
Place Of Use: STOCKWATER
T09S R02W S24 SWNW
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 March 7, 2005. The protest
must also send a copy of the
protest to the applicant.
KARL J DREHER, Director

2/16,23/05

RECEIVED

FEB 28 2005

WATER RESOURCES
WESTERN REGION

Kreger (Taylor), Sue

From: Kreger (Taylor), Sue
Sent: Wednesday, January 19, 2005 9:42 AM
To: 'eleitzin@idfg.state.id.us'
Subject: Comment Letters

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

January 19, 2005

ERIC LEITZINGER, IDFG
PO BOX 25
BOISE ID 83707

Re: Applications for Permit

Dear Eric:

Enclosed is a copy(s) of an application(s) for permit. 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 February 7, 2005.

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
Sue.Kreger@idwr.idaho.gov



71419.pdf



71457.pdf



55-13848.pdf



55-13849.pdf

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

February 10, 2005

Legal Notice Department
OWYHEE AVALANCHE
PO BOX 97
HOMEDALE ID 83628

RE: Applications for Permit Nos. 57-11672, 57-11673, 55-13848, and 55-13849
Applications for Transfer Nos. 71419 and 71457

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 03/07/2005. 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:

55-13848

STATE OF IDAHO
DEPT OF LANDS
954 W JEFFERSON
PO BOX 83720
BOISE ID 83720-0050

Point(s) of Diversion SESWNW S24 T09S R02W OWYHEE County Source SPRING

Tributary To ROCK CREEK

Use: STOCKWATER 01/01 To 12/31 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 01/04/2005

Place Of Use: STOCKWATER

T09S R02W S24 SWNW

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 March 7, 2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Owyhee Avalanche on February 16 and 23, 2005..



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

December 7, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

IDAHO DEPT OF LANDS
ATTN TRACY BEHRENS
PO BOX 83702
BOISE ID 83702

RE: TWO APPLICATIONS FOR PERMIT FOR STOCKWATER

Dear Mr. Behrens:

Our office received two applications for permit to divert springs for stockwater purposes on 10/25/2004. Processing of these applications must be delayed until further clarification of the applications is received. I will address each application by the tributary for the spring, since both of these applications are very similar. Please supply the following information and make the needed changes for each application:

UNNAMED SPRING TRIBUTARY TO ROCK CREEK PERMIT

- 1.) Several springs are shown on the map in the general location of the spring you marked on the map for this application. Sam Noble Spring is also marked on the map in the same area, and it does seem that the spring designated under this application could be Sam Noble Spring. Please clarify if this is in fact Sam Noble Spring or if it is a spring not marked on the map. If it isn't Sam Noble Spring, could you please give us a written location of the spring using Sam Noble Spring as the base point? For example this spring is a ¼ mile due north of Sam Noble Spring.
- 2.) The stockwater use in Section 4 is for 0.02 cfs. This amount is generally given for in-stream stockwater rights or the rate at which a single animal can drink water anywhere along a stretch of a stream at any time, but standard stockwater appropriations are generally based on the amount of water needed to maintain a stockwater system for a specific number of animals who generally will drink in larger numbers from a specific location. In Section 8b you list 800 range cattle. This would allow you a diversion rate of 0.20 cfs for stockwater purposes without an increase in the application fee.
- 3.) You only listed Stockwater for the use, and then you describe a pond under section 6. If you are building a pond, then you may need one or more storage components depending of type of pond and relation to the water source. Storage components are very difficult to explain in written format. I have attempted to put together a guideline that may help you determine what is needed.

- 4.) In Section 9 you list the place of use in the SWNE of Section 24. However, you haven't marked a place of use on the map. You only marked the location of the spring. The place of use would be the location of the pond. If you plan to dig up the spring to create the pond then you would need to show the place of use and point of diversion as the spring. This needs to be clearly marked on the map. If you plan to divert water to troughs throughout the range area, then you would need to mark the location of each water trough as the place of use and the point where the water is diverted as the point of diversion. The points marked on the map must coincide with the legal description in section 9.
- 5.) The application was not signed. Please have someone with the authority to act on behalf of the agency sign the application and list their title.
- 6.) Water right 55-13823 overlaps the place of use for this application. Please describe how this water right relates to the application being filed. For instance, 55-13823 is from different water sources and supplies different watering ponds, but is located in the same grazing tract as this application. A map can be used to show the location and piping of both water rights place of use and point of diversion.

UNNAMED SPRING TRIBUTARY TO ROCK CREEK PERMIT

- 1.) The map for this application shows two springs and doesn't designate which spring is associated with this water right. Only one spring is described on the application. Please clarify the map and/or legal description to show the point where the water will be diverted.
- 2.) The stockwater use in Section 4 is for 0.02 cfs. This amount is generally given for in-stream stockwater rights or the rate at which a single animal can drink water anywhere along a stretch of a stream at any time, but standard stockwater appropriations are generally based on the amount of water needed to maintain a stockwater system for a specific number of animals who generally will drink in larger numbers from a specific location. In Section 8b you list 800 range cattle. This would allow you a diversion rate of 0.20 cfs for stockwater purposes without an increase in the application fee.
- 3.) The map shows a pond in the general area of the place of use. If you are building a pond, then you may need one or more storage components depending on type of pond and relation to the water source. Storage components are very difficult to explain in written format. I have attempted to put together a guideline that may help you determine what is needed.
- 4.) Section 6 has not been completed on the application. Please complete this section.

- 5.) Section 9 of the application lists the place of use as the NENE Section 3. However, the map shows a pond and several stock tanks, which would be considered the place of use. Please clearly mark on the map all of the specific troughs and ponds that will be used under this application as the place of use. The points marked on the map must coincide with the legal description in section 9.
- 6.) The application was not signed. Please have someone with the authority to act on behalf of the agency sign the application and list their title.
- 7.) Water right 55-10191 overlaps the place of use for this application. Please describe how this water right relates to the application being filed. For instance, 55-110191 is from different water sources and supplies different watering ponds, but is located in the same grazing tract as this application. A map can be used to show the location and piping of both water rights place of use and point of diversion.

Please initial and date all changes or corrections made to the application. Once the application has been properly completed, please return it to the above address C/O Dan Nelson.

The Department will hold further processing of your application for 30 days to allow submittal of the required information. Additional time may be granted by the Department upon receipt of a written request and sufficient justification for an extension. After that time, if adequate information is not received, the Department will issue a preliminary order to reject or deny the application.

Applications for permit with storage components can be very confusing. If you have any questions or concerns please contact me at the above address and set an appointment so I can help you through the process.

Respectfully,

A handwritten signature in black ink, reading "Daniel A. Nelson", followed by a long horizontal flourish line.

Daniel A. Nelson
Sr. Water Right Agent