

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 55-13842

Priority: September 03, 2004

Maximum Diversion Rate: 0.02 CFS

This is to certify, that US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
LOWER SNAKE RIVER DISTRICT
3948 DEVELOPMENT AVE
BOISE ID 83705

has applied for a permit to appropriate water from:

Source: TEACUP SPRING

Tributary: DUTCH OVEN 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	04/01 to 11/30	0.02 CFS
WILDLIFE	01/01 to 12/31	0.02 CFS

LOCATION OF POINT OF DIVERSION:

TEACUP SPRING SW¼SE¼NW¼ Sec. 36, Twp 10S, Rge 04W, B.M., OWYHEE County

PLACE OF USE: STOCKWATER & WILDLIFE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
10S 04W 36								X									

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 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 350 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.
6. BLM identification no. 9895.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 20th day of January, 2005.


for KARL J DREHER, Director

Ident. No. 55-13842

RECEIVED

SEP 03 2004

WATER RESOURCES
WESTERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

JAN 10 2005

DEPARTMENT OF
WATER RESOURCES

1. Name of Applicant USDI Bureau of Land Management Phone 208-384-3300
Mailing address 3948 Development Ave, Boise, ID 83705
2. Source of water supply Teacup Spring which is a tributary of NA - Sinks
3. Location of point of diversion is Township 10S Range 4W Sec. 36 in the SW 1/4, SE 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 <u>0.02 cfs</u> for <u>livestock</u>	purposes from <u>4/1</u> to <u>11/30</u> (both dates inclusive)
(cfs or acre-feet per annum)	
Amount <u>0.02 cfs</u> for <u>wildlife</u>	purposes from <u>1/1</u> to <u>12/31</u> (both dates inclusive)
(cfs or acre-feet per annum)	
Amount <u>—</u> for <u>—</u>	purposes from <u>—</u> to <u>—</u> (both dates inclusive)
(cfs or acre-feet per annum)	
Amount <u>—</u> for <u>—</u>	purposes from <u>—</u> to <u>—</u> (both dates inclusive)
(cfs or acre-feet per annum)	
Amount <u>—</u> for <u>—</u>	purposes from <u>—</u> to <u>—</u> (both dates inclusive)
(cfs or acre-feet per annum)	
Amount <u>—</u> for <u>—</u>	purposes from <u>—</u> to <u>—</u> (both dates inclusive)
(cfs or acre-feet per annum)	
5. Total quantity to be appropriated is (a) 0.02 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 underground headbox and 2" pipeline to a 12' aluminum trough with overflow.
 - b. Height of storage dam NA feet; active reservoir capacity NA acre-feet; total reservoir capacity NA acre-feet
 - c. Proposed well diameter is NA inches; proposed depth of well is NA feet
 - d. Is ground water with a temperature of greater than 85°F being sought? No
 - e. If well is already drilled, when? NA; Drilling firm NA
Well was drilled for (well owner) NA; Drilling Permit No. NA
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. 350 cattle
 - c. Municipal; show name of municipality. NA
 - d. Domestic; show number of households. NA
 - e. Other; describe fully. NA

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

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

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	4W	36								S									
										W									

Total number of acres to be irrigated NA

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

11. a. Who owns the property at the point of diversion? USDI Bureau of Land Management

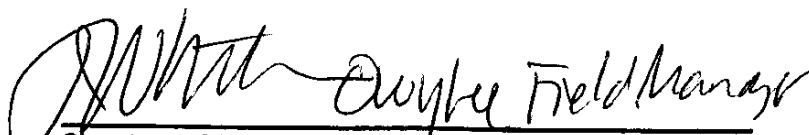
b. Who owns the land to be irrigated or place of use? USDI Bureau of Land Management

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

12. Remarks: project # 9895

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.)

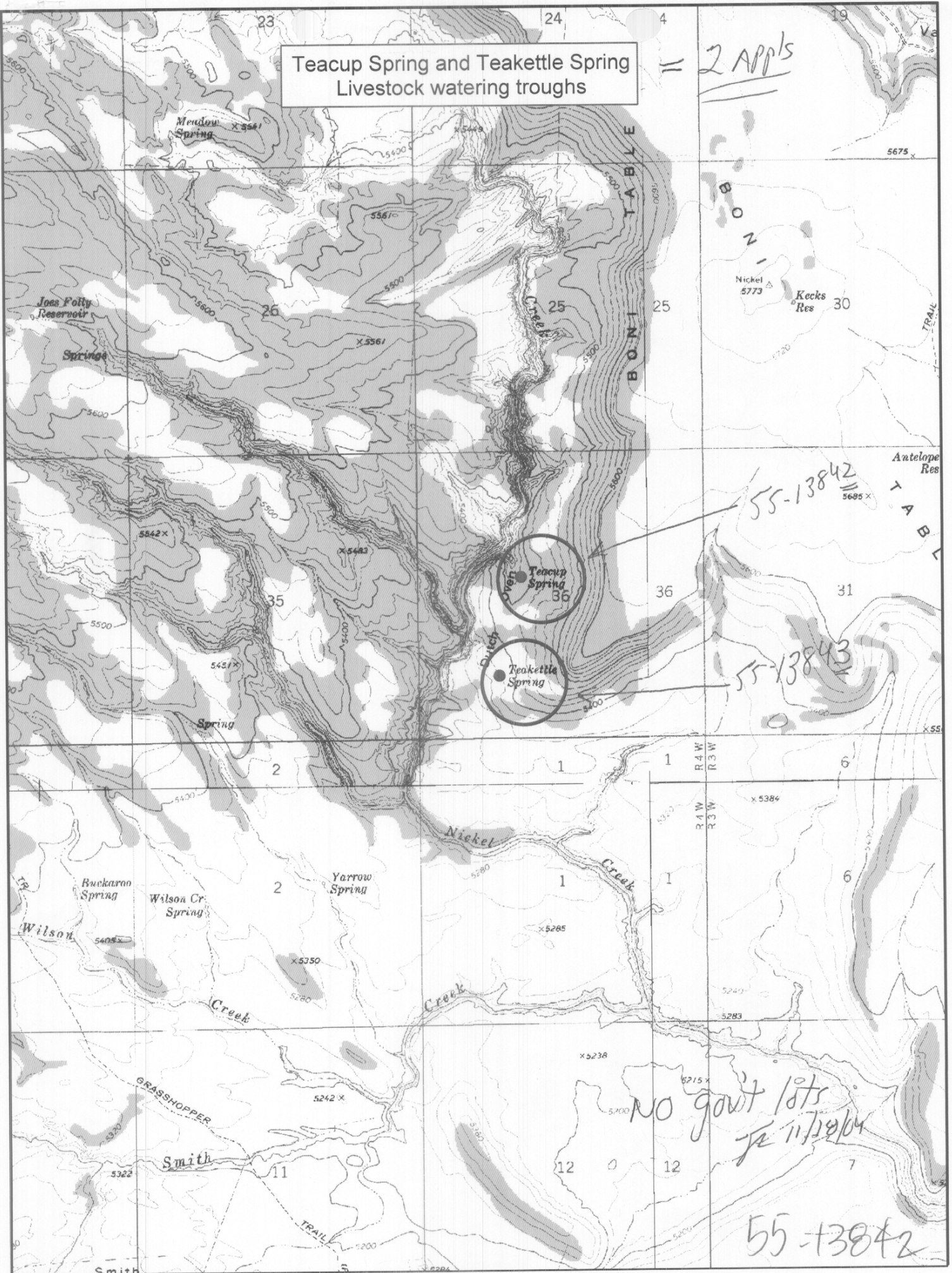
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.


Signature of Applicant (and title, if applicable)
Jenna Whitlock, Owyhee Field Manager

Received by DB Date 9-3-04 Time 4:20p Preliminary check by 82
Fee \$ 100- Received by DB # 10032196 Date 9-3-04
Publication prepared by AK Date 12-1-04 Published in OWYHEE AVALANCHE
Publication approved AK Date 1-6-05

Teacup Spring and Teakettle Spring
Livestock watering troughs

= 2 App's



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

January 21, 2005

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
LOWER SNAKE RIVER DISTRICT
3948 DEVELOPMENT AVE
BOISE ID 83705

RE: Permit No. 55-13842

Permit Approval Notice

Dear Permit Holder:

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

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

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

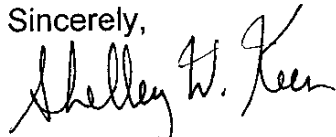
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed a least sixty days prior to the commencement of work in the stream.

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

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

Sincerely,

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

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

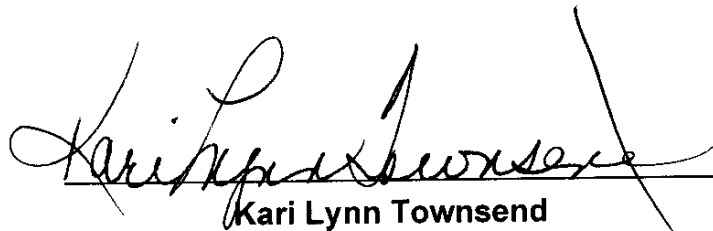
CERTIFICATE OF SERVICE

I hereby certify that on January 21, 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.

55-13842

**US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
LOWER SNAKE RIVER DISTRICT
3948 DEVELOPMENT AVE
BOISE ID 83705**



**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

55-13842

1. slester 11/22/2004 Comment/Analysis

Comment: See 55-13837 comments. Application lists tributary as sinks. IDWR database shows source as tributary to Dutch Oven Creek. Database information acceptable without revision to original application.

2. kwalker 1/18/2005 Permit Review

Comment: Application does not fall within any problem areas. 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):

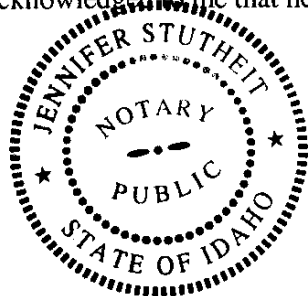
DECEMBER 1, 8, 2004

SIGNED: _____

STATE OF IDAHO }
COUNTY OF OWYHEE }

On this 8th day of DEC 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:
55-13842

US DEPT OF INTERIOR ✓
BUREAU OF LAND
MANAGEMENT
LOWER SNAKE RIVER
DISTRICT
3948 DEVELOPMENT AVE
BOISE ID 83705

Point(s) of Diversion SWSNW
S36 T10S R04W OWYHEE
County Source TEACUP
SPRING

Tributary To DUTCH OVEN
CREEK

Use: STOCKWATER 04/01
To 11/30 0.02 CFS

Use: WILDLIFE 01/01 To 12/
31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 09/03/2004

Place Of Use: STOCKWATER

T10S R04W S36 SENW

Place Of Use: WILDLIFE

T10S R04W S36 SENW

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 12/20/2004. The protest-
ant must also send a copy of the
protest to the applicant.

KARL J DREHER, Director

12/1,8/04

RECEIVED

JAN 05 2005

WATER RESOURCES
WESTERN REGION

RECEIVED

JAN 03 2005

ACCTS PAYABLE

Kreger (Taylor), Sue

To: eleitzin@idfg.state.id.us
Subject: COMMENT LETTERS

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

November 24, 2004

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 December 20, 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



55-13837.pdf



55-13839.pdf



55-13840.pdf



55-13841.pdf



55-13842.pdf



55-13843.pdf

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

November 23, 2004

Legal Notice Department
OWYHEE AVALANCHE
PO BOX 97
HOMEDALE ID 83628

RE: Application for Permit No. 55-13837 and 55-13839 thru 55-13843

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 12/20/2004. 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:

55-13842

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
LOWER SNAKE RIVER DISTRICT
3948 DEVELOPMENT AVE
BOISE ID 83705

Point(s) of Diversion SWSENW S36 T10S R04W OWYHEE County Source TEACUP SPRING

Tributary To DUTCH OVEN CREEK

Use: STOCKWATER 04/01 To 11/30 0.02 CFS

Use: WILDLIFE 01/01 To 12/31 0.02 CFS

Total Diversion: 0.02 CFS

Date Filed: 09/03/2004

Place Of Use: STOCKWATER

T10S R04W S36 SENW

Place Of Use: WILDLIFE

T10S R04W S36 SENW

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 12/20/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Owyhee Avalanche on December 1 and 8, 2004.