

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 55-13837

Priority: August 09, 2004

Maximum Diversion Volume: 0.4 AF

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: UNNAMED STREAM **Tributary:** DEEP CREEK

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
STOCKWATER STORAGE	04/01 to 12/31	0.4 AF
WILDLIFE STORAGE	04/01 to 12/31	0.4 AF

LOCATION OF POINT OF DIVERSION:

UNNAMED STREAM NW¼NW¼ Sec. 15, Twp 12S, Rge 03W, B.M., OWYHEE County

PLACE OF USE: STOCKWATER STORAGE & WILDLIFE STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S 03W 15						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 storage 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. Project also known as Nickel Creek Allotment #9901.

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

* R. M. Mollis
1/2004

Ident

55-13837

12/99

RECEIVED

AUG 10 2004

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

AUG 06 2004

DEPARTMENT OF
WATER RESOURCES

Phone (208) 384-3300

RECEIVED
JAN 10 2005

DEPARTMENT OF
WATER RESOURCES

1. Name of Applicant BUREAU OF LAND MANAGEMENT Phone (208) 384-3300
Mailing address 3948 DEVELOPMENT AVE., BOISE, ID 83705
2. Source of water supply unnamed stream which is a tributary of Deep Creek
3. Location of point of diversion is Township 12S Range 03W Sec. 15 1/4
NW 1/4 NW 1/4 Govt. Lot B.M. Owyhee County
additional points of diversion if any: None

4. Water will be used for the following purposes:

Amount 0.4 afa for stockwater purposes from April 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 0.4 afa for wildlife purposes from April 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)

5. Total quantity to be appropriated is (a) and/or (b) 0.4
cubic feet per second acre feet per annum

6. Proposed diverting works:

A. Earthen dam; reservoir dimensions – 60' x 80' = 4800 ft²; Av depth = 3.5'; capacity = 0.38 af.
Describe type and size of devices used to divert water from the source: 0.38 af.

B. Height of storage dam 10 ft feet; active reservoir capacity 0.38 acre-feet; total reservoir capacity 0.38 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

Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)

7. 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

* AMENDED

9. Description of place of use:

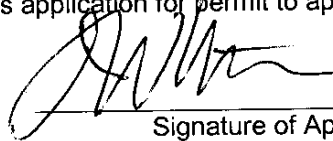
- A. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- B. If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	Sec	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	03W	15						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: Nickel Creek Allotment, project #9901 Pasture 20 Reservoir Reconstruction
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.

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

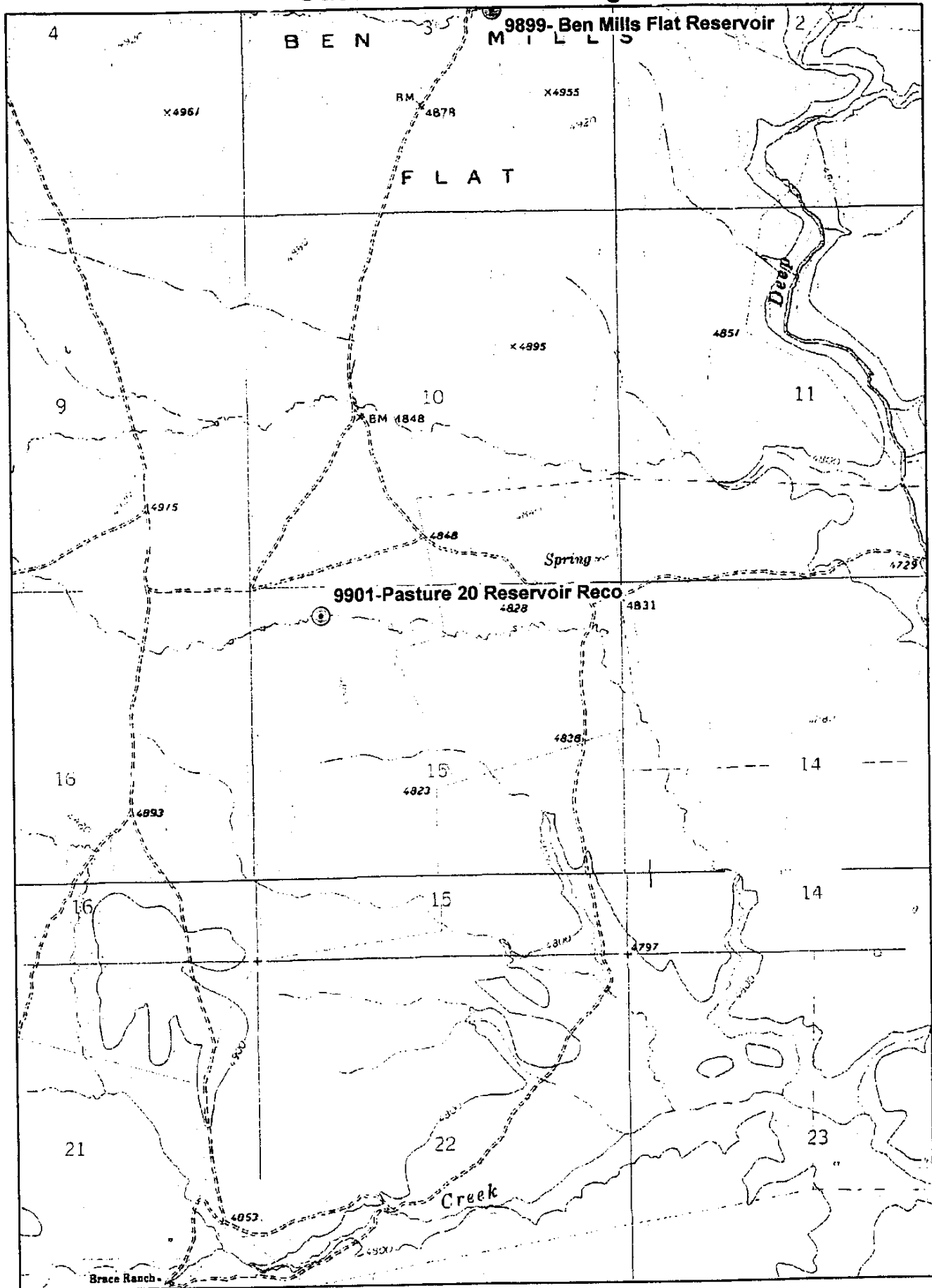
Received by:  Date: 8-9-04 Time: _____ Preliminary check by: 

Fee \$: 100.00 Received by:  #: C074806 Date: 8-9-04

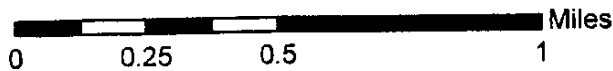
Publication prepared by:  Date: 12-1-8-14 Published in: OWYHEE AVALANCHE

Publication approved:  Date: 1-6-05

Project # 9901
 Castro Table Quadrangle T.12S. R.3W.



No gov't ltr
 -R 11/18/04



No warranty is made by the Bureau of Land Management for use of the data for purposes not intended by BLM.

55-13837

80'

Pool aerial view

60'

Full pool elevation



~ 1:10

pool bottom

2:1

80'

averaged dimensions

$$60 \times 50 \times 2.5' = \frac{10,500 \text{ ft}^3}{43,560} \approx .24 \text{ ac ft}$$

24 ac ft

incorrect:

$$\text{Numerical} = 16,800$$

$$\text{AF} = .38 \approx .4$$

-82 11/18/04

55-13837

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. 55-13837

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.

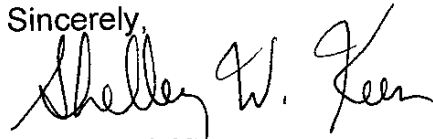
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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)

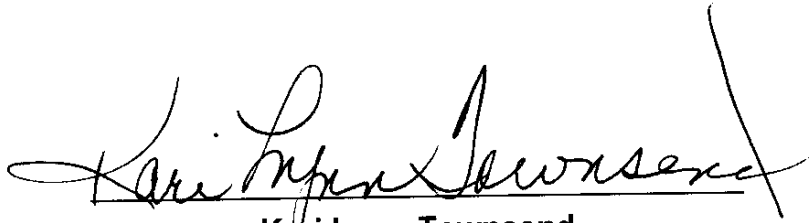
CERTIFICATE OF SERVICE

I hereby certify that on 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.

55-13837

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

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

55-13837

1. slester 11/22/2004 Comment/Analysis

Comment: Applications 55-13837 and 55-13839 through 55-13843 cover the same 350 range cattle for Nickel Creek Allotment. Application 55-13838 probably will be withdrawn since it appears totally covered under 55-10434. See application remarks for project name and number. Storage is for single fill/year.

2. kwalker 1/18/2005 Permit Review

Comment: Application is not within any problem areas. Recommend approval.

MEMORANDUM

TO: Files

FROM: Steve Lester 

DATE: January 7, 2005

RE: BLM Applications 55-13837 and 55-13839 through 55-13843

BLM filed 7 similar applications for stockwater/wildlife uses in a common grazing allotment. Application 55-13838 most likely will be withdrawn. The other 6 applications can be approved as discussed in this memo.

Information common to all 6 applications to be approved

Common database comments and this common review memo are found in 55-13837.

The applications serve the same 350 range cattle in the Nickel Creek Allotment.

IDFG did not reply to the 11/24/04 comment letter.

Applications proposing storage are for single fills per year. They do not require dam safety certification per Manuel Rauhut's (new dam safety engineer at Western) 11/23/04 memo.

The development period is 2 years.

Recommended Conditions of Approval – All 6 Applications

Standard conditions.

Allow 2 years.

Stockwater use is for 350 range cattle in the Nickel Creek Allotment. All rights within this allotment are limited to 350 range cattle.

Development also known as insert project id information for each individual application. Information was data entered as "applicant remarks."

Specific Condition or Information by Individual Application

55-13837, 55-13839 and 55-13840: Storage under this right is limited to a single fill per year.

55-13841: See database comment for local source name.

55-13842 and 55-13843: See database comment about tributary information.

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):

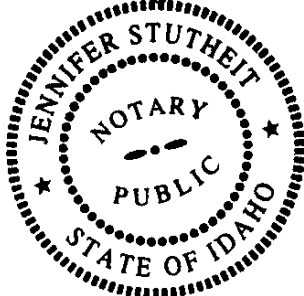
DECEMBER 1, 8, 2004

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:

55-13837

US DEPT OF INTERIOR
BUREAU OF LAND
MANAGEMENT
LOWER SNAKE RIVER
DISTRICT
3948 DEVELOPMENT AVE
BOISE ID 83705
Point(s) of Diversion NWNW
S15 T12S R03W OWYHEE
County Source UNNAMED
STREAM
Tributary To DEEP CREEK
Use: STOCKWATER
STORAGE 04/01 To 12/
31 0.4 AFA
Use: WILDLIFE STORAGE
04/01 To 12/31 0.4 AFA
Total Diversion: 0.4 AFA
Date Filed: 08/09/2004
Place Of Use: STOCKWATER
STORAGE
T12S R03W S15 NWNW
Place Of Use: WILDLIFE
STORAGE

T12S R03W S15 NWNW
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
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

Memorandum

Small Dams & Storage Ponds

From: M. Rauhut

Date: 11/23/04

Re: Application for Permit, 55-13837

The Storage dam is not subject to department (dam safety) jurisdiction, because it impounds less than 10 acre-feet at maximum storage in a low risk area.

**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:

55-13837

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

Point(s) of Diversion NWNW S15 T12S R03W OWYHEE County Source UNNAMED STREAM
Tributary To DEEP CREEK

Use: STOCKWATER STORAGE 04/01 To 12/31 0.4 AFA

Use: WILDLIFE STORAGE 04/01 To 12/31 0.4 AFA

Total Diversion: 0.4 AFA

Date Filed: 08/09/2004

Place Of Use: STOCKWATER STORAGE

T12S R03W S15 NWNW

Place Of Use: WILDLIFE STORAGE

T12S R03W S15 NWNW

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.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Lower Snake River District

3948 Development Avenue

Boise, Idaho 83705

<http://www.id.blm.gov/offices/lsrcd>



In Reply Refer To:
7250 (ID096)

August 6, 2004

RECEIVED
AUG 10 2004
WATER RESOURCES
WESTERN REGION

Idaho Department of Water Resources
1301 North Orchard
Boise Idaho 83706

Dear Sir or Madam:

Please find the enclosed applications for permit on four different points of diversion listed here:

T 12S R 03W Sec. 03 SE1/4SW1/4NE1/4, Owyhee County, Meadow Creek, tributary of Castle Creek.

T 10S R03W Sec. 09 SW1/4NE1/4NW1/4, Owyhee County, unnamed stream, tributary of Deep Creek.

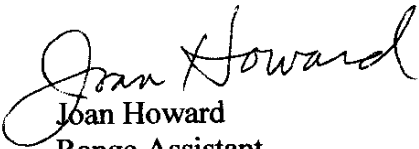
T 12S R 03W Sec. 15 NW1/4NW1/4NW1/4, Owyhee County, unnamed stream, tributary of Deep Creek.

And,

T 10S R 04W, Sec 33 SW1/4NW1/4NE1/4, Owyhee County, Bills Spring, tributary of Wilson Creek.

Also, enclosed convenience check #257 in the amount of \$400.00 for fees on above items.

Sincerely,


Joan Howard
Range Assistant

Enclosure: applications (4)
Convenience check