

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 55-13836

Priority: June 23, 2004

Maximum Diversion Rate: 0.02 CFS

This is to certify, that MICHAEL V JOHNSTON
ANITA J JOHNSTON
19735 MIDDLE RD
CALDWELL ID 83605

has applied for a permit to appropriate water from:

Source: SPRING

Tributary: HOWL 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>
DOMESTIC	01/01 to 12/31	0.02 CFS

LOCATION OF POINT(S) OF DIVERSION:

SPRING SW¼ SW¼ NE¼ Sec. 35, Twp 07S, Rge 05W, B.M. OWYHEE County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S 05W 35			X														

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 01, 2009**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. Domestic use is for 1 home.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 25th day of August, 2004.



FOR KARL J DREHER, Director

RECEIVED
AUG 16 1996

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Mike and Anita Johnston Phone (208) 459-0615
Post Office address 19735 Middle Rd. Caldwell Idaho 83607
2. Source of water supply Spring which is a tributary of Howl Creek
3. Location of point of diversion is SW 1/4 of SW 1/4 of NE 1/4, Govt. Lot -
Sec. 35 Township 7S Range 5W B.M. Owyhee County; additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount .02 for Domestic purposes from 1/1 to 12/31 (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)
5. Total quantity to be appropriated is (a) .02 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Develop Spring with
pipeline to Trailer or Cabin
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
 - 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) _____
7. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity if KW. _____
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; show name of municipality. _____
 - d. Domestic; show number of households. 1 Cabin
 - e. Other; describe fully. _____

9. Description of place of use:

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

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

TWP	RGE	SEC	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	
7S	5W	35			0														

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. None

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

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

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

12. Remarks: _____

13. MAP OF PROPOSED PROJECT ATTACHED X Show clearly the proposed point of diversion, place of use, section number, township and range number.

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.

And J. H. A.
(Applicant)

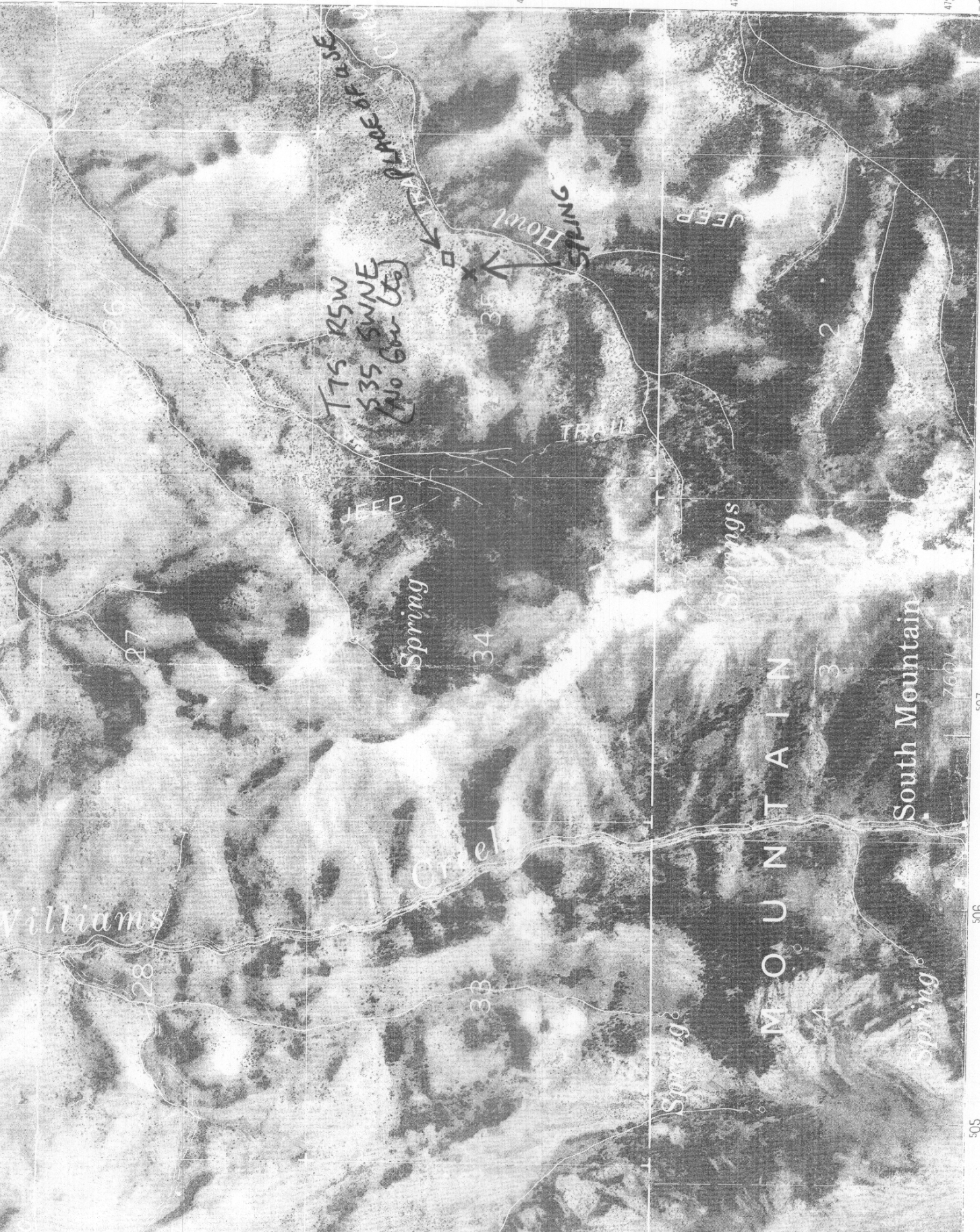
Received by [Signature] Date 6-23-04 Time 3:30 PM Preliminary check by [Signature]
 Fee \$ 100.00 Receipted by [Signature] # W031875 Date 6-23-04
 Publication prepared by sk Date 7-21-04 Published in OWYHEE AVALANCHE
 Publication approved sk Date 8-11-04

T7

T8

65-13836

42° 45' 30" N
116° 52' 30" E



SCALE 1:24000



Now
Starting
Right Side
of file.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

August 26, 2004

MICHAEL V JOHNSTON
ANITA J JOHNSTON
19735 MIDDLE RD
CALDWELL ID 83605

RE: Permit No. 55-13836

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.

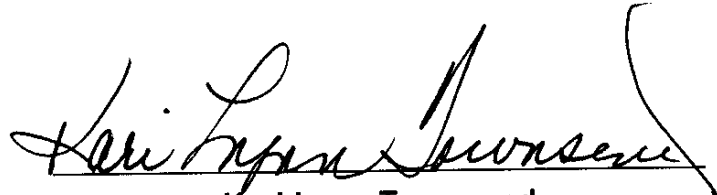
CERTIFICATE OF SERVICE

I hereby certify that on August 26, 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.

55-13836

**ANITA J JOHNSTON
MICHAEL V JOHNSTON
19735 MIDDLE RD
CALDWELL ID 83607**



**Kari Lynn Townsend
Secretary**

Comment Report

55-13836

1. E Retelle 8/25/2004 Application for Permit Review
Comment: Recommend approval as suggested by IDWR Western.

**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.

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 interest 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 attached, 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):

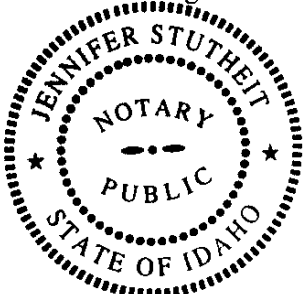
JULY 21, 28, 2004

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:
55-13836

ANITA J JOHNSTON
MICHAEL V JOHNSTON
19735 MIDDLE RD
CALDWELL ID 83607
Point(s) of Diversion SWSWNE
S35 T07S R05W OWYHEE
County Source SPRING
Tributary To HOWL CREEK
Use: DOMESTIC 01/01
To 12/31 0.02 CFS
Total Diversion: 0.02 CFS
Date Filed: 06/23/2004
Place Of Use: DOMESTIC
T07S R05W S35 SWNE
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 08/09/2004. The protestant must also send a copy of the protest to the applicant.
KARL J DREHER, Director
7/21,28/04

The Oropee Avalanche

STATEMENT

07/30/04

RECEIVED
24 2004

Accounts are due and payable on the 10th of the month. 1.5% interest will be charged on all past due accounts.

DATE	INVOICE	DESCRIPTION	CHARGES	PAYMENTS	BALANCE
07/07/04	Ava24192	57-11663	64.35	0.00	64.35
07/20/04	Ava24290	55-13836	52.91	0.00	52.91
CURRENT	1 - 30 DAYS	31 - 60 DAYS	OVER 60 DAYS	AMOUNT DUE	
0.00	117.26	0.00	0.00	117.26	

Kreger (Taylor), Sue

From: Kreger (Taylor), Sue
Sent: Thursday, July 15, 2004 8:51 AM
To: 'eleitzin@idfg.state.id.us'
Cc: Kreger (Taylor), Sue
Subject: comment letters.

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

July 15, 2004

ERIC LEITZINGER, IDFG
PO BOX 25
BOISE ID 83707

Re: Applications for Permit

Dear Eric:

There are copies of six applications this time. I will try e-mailing them all at once but if it doesn't work again I will send them two at a time (or however many it will let me send). 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 August 9, 2004.

Thanks, Eric. 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



55-13836.pdf



65-22884.pdf



65-22893.pdf



65-22894.pdf



65-22895.pdf



79-14090.pdf

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

July 14, 2004

Legal Notice Department

OWYHEE AVALANCHE
PO BOX 97
HOMEDALE ID 83628

RE: Application for Permit No. 55-13836

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 08/09/2004. 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:

55-13836

ANITA J JOHNSTON
MICHAEL V JOHNSTON
19735 MIDDLE RD
CALDWELL ID 83607

Point(s) of Diversion SWSWNE S35 T07S R05W OWYHEE County Source SPRING
Tributary To HOWL CREEK

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

Total Diversion: 0.02 CFS

Date Filed: 06/23/2004

Place Of Use: DOMESTIC

T07S R05W S35 SWNE

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 08/09/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Owyhee Avalanche on July 21 and 28, 2004.