

RECEIVED

AUG 30 2004

Ident. No. 77-14160

RECEIVED

MAY 26 2004

WATER RESOURCES
WESTERN REGION

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 Charles W. & Shirley M. Wunsch Phone (208) 628-4130

Mailing address P.O. Box 427 Riggins, Id. 83549

2. Source of water supply Unnamed Spring - Unnamed stream which is a tributary of French Creek

3. Location of point of diversion is Township 23 N Range 3 E Sec. 1 in the SE $\frac{1}{4}$,
SE $\frac{1}{4}$, NE $\frac{1}{4}$, Govt. Lot 5, B.M., Idaho County;

additional points of diversion if any: Stream diversion in SW NE S-1T 23N R3E

4. Water will be used for the following purposes:

Amount .04 for Domestic purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 1.00 for Diversion to storage purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 2.8 cfs for Aesthetic storage purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 1 cfs for Aesthetic 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)

5. Total quantity to be appropriated is (a) 1 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 piped to house with outlet to ditch - ditch from stream to dub pond

b. Height of storage dam 0 feet; active reservoir capacity 12.24 acre-feet; total
reservoir capacity 12.24 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. _____

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 in kW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. 1-home & yard

e. Other; describe fully. Divert water to pond water will flow through pond and ditch for aesthetic use

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	
23N	3E	S1			D														
					S														
					A														

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 enabling the applicant to make this filing:

12. Remarks: Pond to be aprox. 2 acres in surface area and 12 ft deep 24 ac volume
2 acre E surface pond will evaporate aprox. same as 2 acres of alpha or 4 acre feet of water per year plus 24 acre ft pond equals 28 acre feet - Water will be diverted from pond to Falls Creek

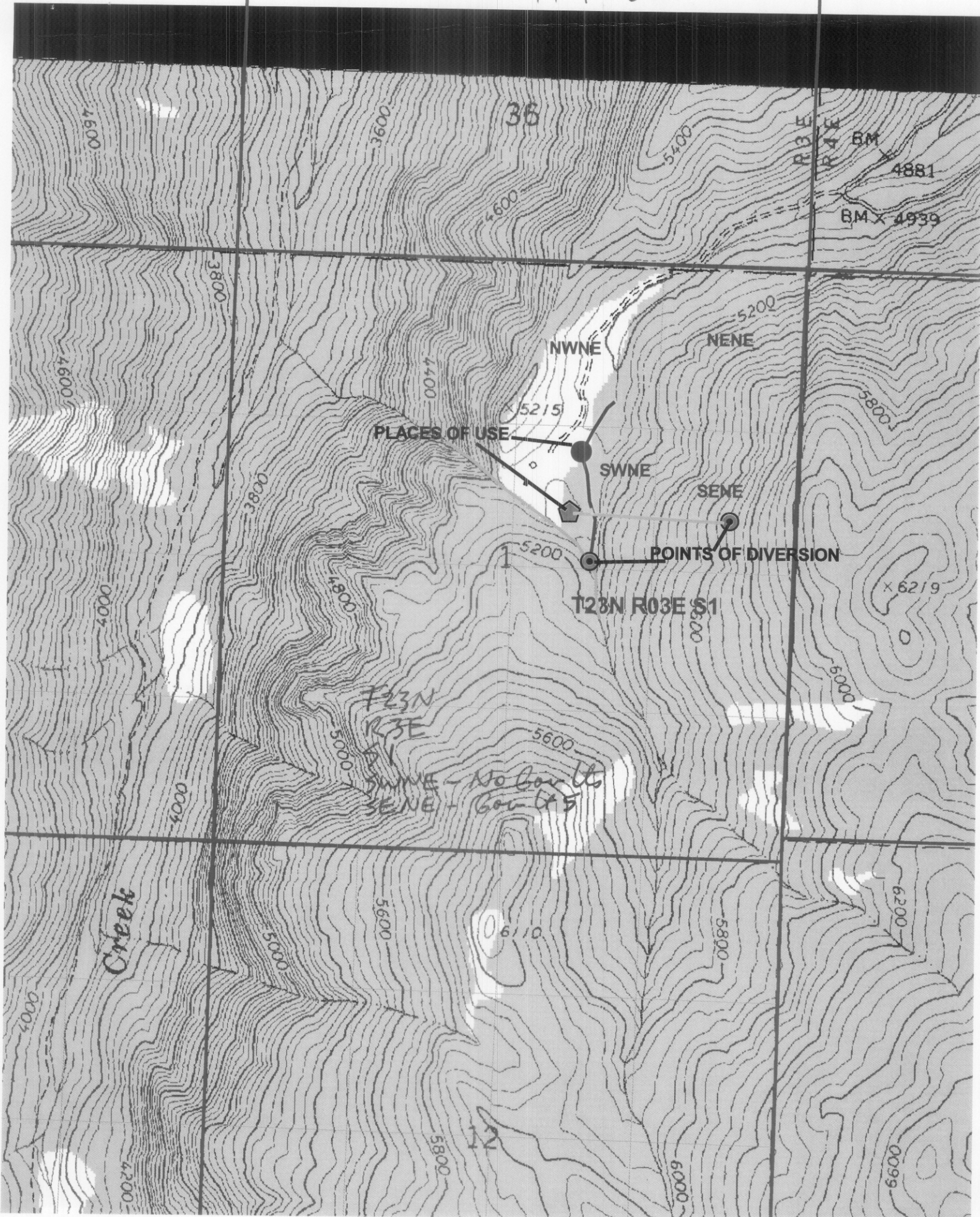
13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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.

Shirley M. Wunsch
 Signature of Applicant (and title, if applicable)

Received by DAN Date 5-26-04 Time 1:44 Preliminary check by ly
 Fee \$ 250.00 Receipted by DAN # W031758 Date 5-26-04
 Publication prepared by sk Date 8-4-11-04 Published in ad city free press
 Publication approved sk Date 8-23-04

77-14160



UNNAMED STREAM
TRIBUTARY TO
FRENCH CREEK

PLACES OF USE

SWNE

SENE

UNNAMED SPRING
TRIBUTARY TO
FRENCH CREEK

POINTS OF DIVERSION

T23N R03E S1

REQUEST TO PROCESS

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

Name of Applicant

Charles W. Wunsch & Shirley M. Wunsch

Mailing Address

P.O. Box 427

Riggins

Application No.
(if known)

Idaho 83549

☐ 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

Shirley M. Wunsch

Date

5-26-04

Please return this form to:

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



IDAHO FISH AND GAME
Southwest Region/McCall Office
555 Deinhard Lane
McCall, ID 83638
208 634 8137

Dirk Kempthorne/Governor
Steven M. Huffaker/Director

Mr. John Westra
Western Regional Manager
Idaho Dept. of Water Resources
2735 Airport Way
Boise, ID 83705

April 20, 2004

RE: Proposed Wunsch water development and water right

Dear Mr. Westra;

Chuck and Shirley Wunsch recently contacted me about a proposed water development on their property near the Salmon River upstream of Riggins, Idaho. The Wunschs propose to excavate an approximately one acre pond near the headwaters of French and Fall creeks on the south side of the Salmon River on some recreational property. They asked me to review their project which lies in section 1 T23N R03E. The area lies on a bench that had been developed for mineral extraction in the mid 1900's and the historical watercourses in the area have already been greatly changed. The Department has no evidence of fish being in the area the Wunschs would like to develop.

The Wunschs must also apply for a Department private pond permit, properly screen the inlet and outlet of pond and stock only sterile rainbow trout. With these precautions in place I do not see any impacts to fishery resources from their proposal.

My understanding is that an application for water right will shortly be submitted to your office. Hopefully this letter will be useful in your review of their application. Please contact me if any further information is desired.

Sincerely,

Dale B. Allen
Regional Fishery Manager

Cc Chuck Wunsch

* Per 7/8/04 telecon with Dale Allen : 2 acre pond OK.

(Dale referenced 1 acre pond, application proposed 2 acre pond)

NO. 77-14160

Maximum Diversion Rate: 1.00 CFS

Tributary: FRENCH CREEK
FRENCH CREEK

1. Proof of application of water to beneficial use shall be submitted on or before **September 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.
5. The domestic use authorized under this right shall not exceed 13,000 gallons per day.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 77-14160

6. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
7. 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 7th day of September, 2004.



KARL J DREHER, Director

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

September 8, 2004

CHARLES W WUNSCH
SHIRLEY M WUNSCH
PO BOX 427
RIGGINS ID 83549

RE: Permit No. 77-14160

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.

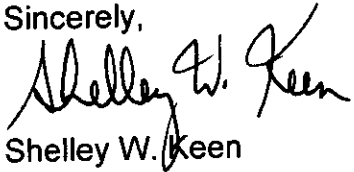
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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 208-327-7946.

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:klf

Enclosure(s)

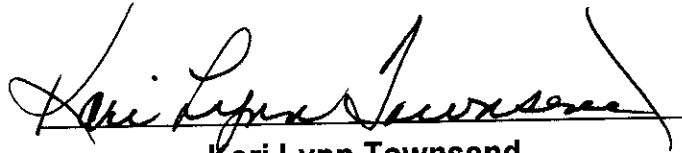
CERTIFICATE OF SERVICE

I hereby certify that on September 8, 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.

77-14160

**CHARLES W WUNSCH
SHIRLEY M WUNSCH
PO BOX 427
RIGGINS ID 83549**

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

77-14160

1. Igraves 7/20/2004 Legal Notice Remarks

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

2. Igraves 7/20/2004 Comment/Analysis

Comment: Proposal appears to be subject to the Salmon River Moratorium, however, Dale Allen, Regional Fishery Mgr, IDFG, submitted a letter dated 4/20/2004, that stated IDFG has no evidence of fish being in the area the applicants would like to develop. Dale referenced a 1 acre pond in his letter. The proposal lists a 2 acre pond. Per telecon, Dale stated that a 2 acre pond was still ok. Because the proposal will have no effect on the migration of anadromous fish due to its location, the application can be processed (per Steve Lester and John Westra).

3. kwalker 9/3/2004 Permit Review

Comment: Recommend for approval as region suggests.

RECEIVED
AUG 23 2004
WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

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

77-14160

SHIRLEY M WUNSCH
PO BOX 427

RIGGINS ID 83549

CHARLES W WUNSCH

PO BOX 427

RIGGINGS ID 83549

Point(s) of Diversion L5 (SESENE)

S1 T23N R03E

IDAHO County Source SPRING

Tributary To FRENCH CREEK

Point(s) of Diversion SWNE S1

T23N R03E IDAHO County

Source UNNAMED STREAM

Tributary To FRENCH CREEK

Use: DOMESTIC 01/01

To 12/31 0.04 CFS

Use: AESTHETIC 01/01

To 12/31 1 CFS

Use: AESTHETIC STORAGE

01/01 To 12/31 28 AFA

Use: DIVERSION TO STORAGE

01/01 To 12/31 1 CFS

Total Diversion: 1 CFS

Date Filed: 05/26/2004

Place Of Use: DOMESTIC

T23N R03E S1 SWNE

Place Of Use: AESTHETIC

STORAGE

T23N R03E S1 SWNE

Place Of Use: AESTHETIC

T23N R03E S1 SWNE

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 Direc-
tor, 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
08/23/2004. The protestant must also
send a copy of the protest to the appli-
cant.

KARL J DREHER, Director P u b -
lished in the Idaho County Free Press on
August 4 and 11, 2004.

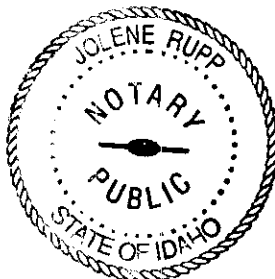
A4-11

STATE OF IDAHO
County of Idaho - ss.

Andrew J. McNab, being first duly sworn, says he is the
Publisher of the IDAHO COUNTY FREE PRESS, a weekly news-
paper published and issued weekly at Grangeville, Idaho County,
State of Idaho, and is of general circulation in said county and
state, that the said legal notice, of which the one hereto attached
is a true copy, was published in said paper for two weeks, being
published two times, the first publication being on the 4th
day of August, 2004; and the last publication on the 11th day
of August, 2004; and that the said legal notice was published in
the newspaper proper and not a supplement; that said newspa-
per has been continuously and uninterruptedly published in said
county during a period of seventy-eight consecutive weeks prior
to the publication of said legal notice of advertisement.

STATE OF IDAHO)
COUNTY OF IDAHO)

On this 11th day of August in the year of 2004, before me a
Notary Public personally appeared Andrew J. McNab, known or
identified to me to be the person whose name subscribed to the
within instrument, and being by me first duly sworn, declared that
the statements therein are true, and acknowledged to me that he
executed the same.



Jolene Rupp
Notary Public for Idaho
Residing at Grangeville, ID
My commission expires: 1-24-07

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

July 23, 2004

Legal Notice Department
IDAHO COUNTY FREE PRESS
PO BOX 690
GRANGEVILLE ID 83530

RE: Application for Permit No. 77-14160 and 79-14092

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find two legal notices 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 notices 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 08/23/2004. 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:

77-14160

SHIRLEY M WUNSCH
PO BOX 427
RIGGINS ID 83549
CHARLES W WUNSCH
PO BOX 427
RIGGINGS ID 83549

Point(s) of Diversion L5 (SESENE) S1 T23N R03E IDAHO County Source SPRING
Tributary To FRENCH CREEK

Point(s) of Diversion SWNE S1 T23N R03E IDAHO County Source UNNAMED STREAM
Tributary To FRENCH CREEK

Use: DOMESTIC 01/01 To 12/31 0.04 CFS

Use: AESTHETIC 01/01 To 12/31 1 CFS

Use: AESTHETIC STORAGE 01/01 To 12/31 28 AFA

Use: DIVERSION TO STORAGE 01/01 To 12/31 1 CFS

Total Diversion: 1 CFS

Date Filed: 05/26/2004

Place Of Use: DOMESTIC

T23N R03E S1 SWNE

Place Of Use: AESTHETIC STORAGE

T23N R03E S1 SWNE

Place Of Use: AESTHETIC

T23N R03E S1 SWNE

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 08/23/2004. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Idaho County Free Press on August 4 and 11, 2004.