

FOR OFFICE USE ONLY
 Amt. of Fee \$: 50.00
 Receipt No. 033740
 Receipt By: JW
 Date Received: 10-17-95

STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT 16 1995

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 45-07942 Telephone No. (208) 677-6626
2. Name(s) of Permit Holder(s): U.S. Bureau of Land Management
3. Mailing Address: 15 E. 200 S., Burley, ID 83318
4. Source of Water: Daren's Spring If **GROUNDWATER** (well), Date Drilled: mo. ____ / yr. ____
 a. Well Driller: _____ Drilling Permit Number: _____

b. **OPTIONAL:**

Pump Horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft): _____

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households): _____ Stockwater (No. and type of stock): 880 Range Cattle; 1200 Sheep
 Irrigation (No. of acres): _____ Other: Various Wildlife

6. Total rate of diversion and/or volume for which proof is submitted: 0.03 cfs OR _____ acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
 (This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? Yes _____ or No ✓
 Has the measuring device been installed? Yes _____ or No _____

Flow Measurement Port: Is a flow measurement port required? Yes _____ or No _____
 Has the measurement port been installed? Yes _____ or No _____

8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: Steve Davis Telephone Number: (208) 677-6626
 Address: 15 E. 200 S., Burley, ID 83318

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: Steven R. Davis ^{Water shed} ^{Specialist} ^{October 29, 1995}
 (include your title, if on behalf of company or organization)

NOV 07 1995

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 45-07342

Proposed Priority: April 12, 1978

Maximum Diversion Rate:

0.03 CFS

This is to certify, that **US DEPT OF INTERIOR**
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

has applied for a permit to appropriate water from:

DARENS SPRING

tributary of **GOOSE 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	05/01 to 10/30	0.03 CFS
WILDLIFE	01/01 to 12/31	0.01 CFS
	Totals	0.03 CFS

LOCATION OF POINT(S) OF DIVERSION:

SWSW , Sec. 21, Township 15S, Range 22E
CASSIA County

PLACE OF USE: STOCKWATER

TWN RGE SEC

15S 22E 21 SWSW

PLACE OF USE: WILDLIFE, same as STOCKWATER use

CONDITIONS/REMARKS:

1. See Preliminary Order for additional conditions of approval.

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

29th day of September, 1994.

[Signature]
for R. Keith Higginson, Director

[Stamp]

DEC 19 1994

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 45-07342 IN THE)
NAME OF THE BUREAU OF LAND)
MANAGEMENT)
_____)

PRELIMINARY ORDER

This matter having come before the Idaho Department of Water Resources (department) in the form of a protested application for permit, the department having held a conference in the matter and the parties having agreed to allow the department to reach a decision based upon the information provided at the conference, the department reaches the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On April 12, 1978, the U.S. Department of Interior, BLM (applicant) submitted Application for Permit No. 45-07342 (application) to the department proposing the diversion of 0.03 cubic feet per second of water from Daren's Spring for wildlife and stockwater purposes in Cassia County, Idaho.

2. The department published notice of the application which was protested by Morris W. Mitchell.

3. On February 28, 1979, the department conducted a conference in the matter. Both the applicant and protestant were present and represented themselves.

4. The issue identified by the protestant was that approval of the application would reduce the quantity of water under his existing water right by intercepting water which would flow into Cold Creek.

5. Daren's spring which the applicant developed in the Fall of 1977 did not flow prior to development and did not enter Cold Creek. Flow from the spring was developed using ten (10) feet of perforated pipe close to the surface of the ground.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in part as follows:

In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought

DEC 19 1984

to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor...

2. The application will not reduce the quantity of water under existing water rights.

3. The water supply available is sufficient for the proposed wildlife and stockwater uses.

4. The application was made in good faith and not for delay or speculative purposes.

5. The applicant has sufficient financial resources with which to complete the project, since the project is already completed.

6. The application does not conflict with the local public interest.

7. The application is not contrary to the conservation of water within Idaho.

8. The department should approve the application and issue a permit with certain conditions and limitations.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Permit No. 45-07342 is **APPROVED** subject to the following conditions and limitations.

1. Proof of construction of works and application of water to beneficial use shall be submitted to the department on or before October 1, 1995.

2. The stockwater is for 880 cattle and 1,200 sheep.

Signed this 29th day of September, 1994.


L. GLEN SAXTON, Chief
Water Allocation Bureau

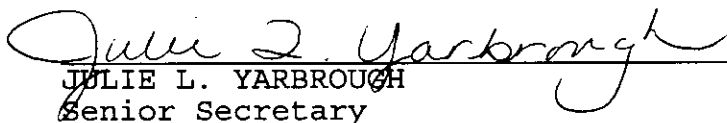
DEC 19 1994

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 29th day of September, 1994,
I mailed a true and correct copy, postage prepaid, of the foregoing
PRELIMINARY ORDER to the following:

U.S. Dept. of Interior
Bureau of Land Management
3380 Americana Terrace
Boise, ID 83706

Morris W. Mitchell
Route 2
Burley, ID 83318


JULIE L. YARBROUGH
Senior Secretary

DEC 19 1994

Identification No. _____

Application No. 45-7342

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED

APR 17 1978

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

Department of Water Resources
Southern District Office

1. Name of applicant U.S. Dept. of Interior BLM Phone: 678-5514
post office address Route #3, Box 1 Burley, Idaho 83318
2. Source of water supply Darren's Spring which is a tributary of Goose Creek
3. a. Location of point of diversion is SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 21 Township 15 S.
Range 22 E. B.M. Cassia County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into Ground at a point in SW $\frac{1}{4}$
of SW $\frac{1}{4}$ of Section 21 Township 15 S. Range 22 E. B.M. _____
4. Water will be used for the following purposes:
Amount .0070 for Wildlife purpose from 1-1 to 12-31 *Per phone conversation
(cfs or acre-feet per annum) 5-1* to 12-31 w/L. Chausse 4-19-78
Amount .0264 for Livestock purpose from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum) _____ to _____ (both dates inclusive)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum) _____ to _____ (both dates inclusive)
5. Total quantity to be appropriated:
a. .0334 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Headbox for collection, piped
to trough. Overflows back into draw.

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 1 years.
b. Estimated construction cost is \$ 400.
8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 21 Township 15 S.
Range 22 E. B.M.
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered 880 Beef Cattle 1200 Sheep

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____
(5) If water is to be used for other purposes describe: A variety of wildlife species.

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[illegible]

Total number of acres to be irrigated_____

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

9. a. Who owns the property at the point of diversion U.S. Government

b. Who owns the land to be irrigated or place of use U.S. Government

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

10. Remarks This spring was developed to provide livestock and wildlife a source of
clean water, and will also eliminate trampling damage to drainage. Livestock
use between 5-1 and 10-30.

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11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

T. 15 S., R. 22 E.

[illegible]

Scale: 2 inches equal 1 mile

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

[Signature]
(Applicant)
ACTING DISTRICT MANAGER.
DEC 19 1901

j 4/12/78 9:10
Received by *fg* Date *3/21/78* Time *1:45*
Preliminary check by *fg* Fee \$ *10.00*
Received by *mr* Date *4/12/78* # *10396*
Publication prepared by *sm* Date *4/19/78*
Published in *South Idaho Press*
Publication dates *5/2 + 5/9/78*
Publication approved *of* Date *5/12/78*
Priority reduced to _____ Reason _____

Protests filed by: *marion w. mitabell*

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined* Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19____.
- c. Other: _____

2. Denial of said application is for the following reasons: _____

Witness my hand this _____ day of _____ 19____.

Director

DEC 19 1994

SOUTH IDAHO PRESS

BURLEY, IDAHO

AFFIDAVIT OF PUBLICATION

County of Cassia,)

) ss.

STATE OF IDAHO)

Cindy Duffen being first

duly sworn, deposes and says that She is the

clerk of the South Idaho Press, a daily newspaper published at Burley, Idaho, in the county aforesaid and that the paper is of general circulation therein. Deponent further states that the printed notice attached hereto was duly published according to law in the regular editions of

The South Idaho Press for 3-2 times consecutive weeks, commencing with the issue

dated 5-2 1978 and ending

with the issue dated 5-9 1978

Cindy Duffen

Subscribed and sworn to before me

this 10th day of May

1978

Norma M. Peterson Notary Public

Cost of Publication 11.20

Notary Fee _____

Total Cost 11.20

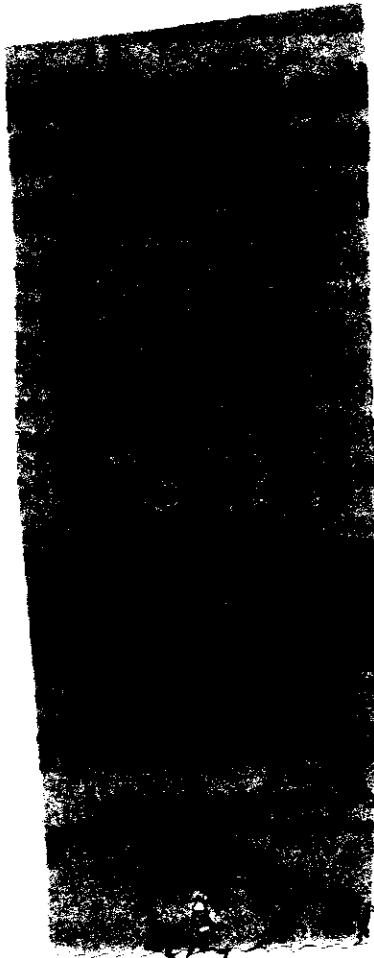
NOTARY PUBLIC RESIDING AT
RUPERT, IDAHO. MY COMMISSION
JUL 21, 1981

AD OK
5/12/78

ED

1978

Resources
Office



19 1994

SOUTH IDAHO PRESS

BURLEY, IDAHO

AFFIDAVIT OF PUBLICATION

County of Cassia,)
) ss.
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Cindy Duffin

Subscribed and sworn to before me

this 10th day of May

1978

Wm. M. Blum Notary Public

Cost of Publication 11.20

Notary Fee

Total Cost 11.20

NOTARY PUBLIC RESIDING AT
RUPERT, IDAHO, IN COMMISSION
1981

78-187

**NOTICE OF APPLICATION FOR
WATER PERMIT**

NOTICE IS HEREBY GIVEN that the U.S. Dept. of Interior, BLM, Burley, Idaho, 83318 has on 4/17/78 submitted Application No. 45-7342 for a permit to appropriate .0334 cubic feet per second of water from Daren's Spring, tributary of Goose Creek by means of headbox for collection, piped to trough, overflows back into draw within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 21, Twp. 15 So., Rge. 22 E., B.M., Cassia County to be used from Jan. 1 to Dec. 31 for wildlife and from May 1 to Oct. 30 for livestock purposes within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 21, Twp. 15 So., Rge. 22 E., B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho, 83301 on or before May 19, 1978.

C. Stephen Allred
Director

Published in the South Idaho Press
on 5/2/78 and 5/9/78.

DE

October 27, 1995

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 45-07342

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

If you have questions concerning this matter, please feel free to contact the SOUTHERN Regional Office in Twin Falls at (208) 736-3033.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

RECORDED

NOV 07 1995

August 31, 1995

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

PROOF DUE NOTICE

RE: PERMIT NO. 45-07342

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before November 1, 1995.

(See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

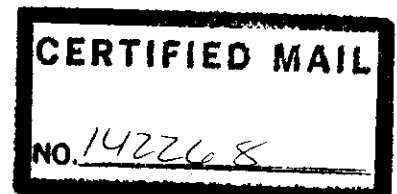
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

Handwritten signature

NOV 07 1995





State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

November 22, 1994

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
IDAHO STATE OFFICE
3380 AMERICANA TERRACE
BOISE ID 83706

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 45-07342

Dear Permit Holder(s):

Enclosed is a copy of your approved application for permit.
Please be sure to thoroughly review the "CONDITIONS/REMARKS:"
listing on the permit.

If you have any questions, please call our office at (208) 327-
7947.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Johnson', followed by a horizontal line.

JIM JOHNSON, Manager
Water Right Permits Section

JJ:dc

Enclosure



NOV 29 1994



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

September 29, 1994

RE: In the matter of Application for Permit No. 45-07342 in the name of Bureau of Land Management

Dear Interested Party:

In a recent review of protested water right matters pending before the department, the department discovered that final action has never been taken in connection with protested Application for Permit 45-07342 which the BLM filed in 1978. Hence, while the decision in this matter is far from being timely, to allow the matter to languish in department files for an additional time period would merely further potentially complicate the matter. The department apologizes for the length of time associated with the issuance of a decision in this matter.

The accompanying order 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 unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the hearing officer within fourteen (14) days of the service date of this order. The hearing officer 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 twenty-one (21) 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 to the Director. Otherwise, this preliminary order will become a final order of the agency.

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If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Director. The Director retains the right to review the preliminary order on his own motion.

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 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

DEC 19 1994

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.

Sincerely,



L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

In the matter of Application for Permit)

No. 45-7342 in the name of)

U.S. Dept. of Interior BLM)

Agreement

We hereby agree to allow the Director of the Department of Water Resources to reach a decision in this matter based upon the information obtained during the conference held at Burley Idaho on February 28, 1979 and the information found during ^{at least four} field examinations of the area, with the first exam to be made during March.

We understand that by this agreement we do not waive or relinquish our right to appeal the decision reached.

Signed at Burley Idaho this 28th day of February 1979

Robert S. Buve

Representing BLM

Donna L. Ditchell

DEC 19 1994

3-27-79

Field Inspection of Dabens SPTing

I Talked with Mattis Mitchell at his home & inspected the SPTing.

The SPTing is located about 200 ft uphill from the road. The trough overflow was running an estimated 1 gpm. The water made a small boggy area for about 100 ft below the SPTing before sinking.

There is no evidence of flowing water at the road. ~~the~~ other than a lush growth of grass in the drainage below the SPTing.

~~The~~ The snowmelt in the area of the SPTing was nearly complete with only a few patches remaining.

A 5 foot wick in Cold Ct at the main Road read approximately -2 ft.

DEC 19 1994

45-7342

BLM: Spring was not tributary prior to development

Developed in 1977

No flowing water before spring was developed.

Morris Mitchell: Spring reaches Cold Ct part of year

Reaches Cold Ct after Apr 17 when Protestant's
right goes on.

BLM: Spring heads 100 Yds above the road & water

has never reached the road. No water reaches road

Since development.

Mitchell: difficult to get more than 1 cfs from Cold Ct
after July 1.

There are other springs down the draw
from Daniels Spring which are tributary to
Cold Ct.

Mitchell P.D. is just inside Sec 25.

where Cold Ct crosses the line.

BLM: Perforated pipe was laid close to surface - 10ft off

Morris Mitchell 862-3816

DEC 19 1994

45-7342

Feb 28, 1979

BLM

Spring -

Did not flow prior to development -

Developed in Fall of 1977 -

No flow prior to development

Water is piped for 200 feet and therefore increases the flow downstream

Protestant -

1 The Springs reach Goose Creek -

2 Hasn't seen water flowing in the Gully -

3 As soon as flood water is gone the decreed water is cut back - 1 cfs

4 Dorens spring $\frac{7}{8}$ mile 600 ft higher in elevation

5 Objects to the granting of the permit not to the use of the water.

6 Concerned about establishing precedent -

Applicant

Water prior to spring development - did not enter Cold Creek ->

Stock has previously watered from Cold Creek.

Perforated pipe layed in trench - 10 ft long - reduced to $1\frac{1}{2}$ "

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45-7342 - U. S. Department of Interior BUREAU OF LAND MANAGEMENT

LAW ENFORCEMENT CENTER - Cassia County - Burley, Idaho

February 28, 1979 - 1:00 P.M.

Roster of Attendance

NAME	ADDRESS	REPRESENTING
Robert S. Revor	Box 20 Federal Bldg + Ct House Boise, Idaho	BLM
William T Mabbitt	General Dubbing Boise, Idaho	BLM
Duane L. Wilson	Burley District Office BLM	BLM
John Haxby	Burley BLM	BLM
Robert Bedke	Oakley, Ida	Goose Creek Cattleman
Ernest Critchfield	" "	" "
Ellen Critchell	Oakley, Ida	" "
Morris W. Mitchell	Oakley, Ida.	" "

DEC 19 1984

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

In the Matter of Protest Against Approval)
of Application for Permit No. 45-7342 in) Notice of Conference and/or Hearing
the name of U. S. Dept. of Interior BLM)
_____)

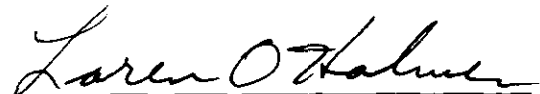
On April 17, 1978, U. S. Department of Interior Bureau of Land Management filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On May 15, 1978, the Department received protest against approval of said application from Morris W. Mitchell.

The Department has set the matter of protest for conference and/or hearing for Wednesday, February 28, 1979, at 1:00 p.m., in the conference room of the Cassia County Law Enforcement Center, 129 East 14th Street, Burley, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Any party desiring the taking of stenographic notes by a qualified court reporter must request such in writing at least five (5) days before the date set for hearing and must submit to the director the name of a qualified reporter who is available on the date set for hearing. The party requesting the reporter shall bear the expense of the reporter's attendance fees. A taped record of the proceedings will be maintained for the appeal period.

Failure to appear at the time and place set for hearing by the applicant or protestant may allow the Department without prejudice to dismiss the protest or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 14th day of February, 1979.


LOREN O. HOLMES
Southern Region Supervisor

DEC 19 1979

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP CODE in the space below.

- Complete items 1, 2, and 3 on the reverse
- Moisten gummed ends and attach to front of article if space permits. Otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

AM
FEB 25
PENALTY FOR FAILURE
TO AVOID PAYMENT
OF POSTAGE

1979



RETURN
TO

DEC 18 1978
State Dept of Water Resources
(Name of Sender)

1041 Delmar Labs Bld North
(Street or P.O. Box)

Trini Falls Ark 83301
(City, State, and ZIP Code)

45-7342 - US DEPT INTERIOR BLM

PS Form 3811, Apr 1977

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER. Complete items 1, 2 and 3
Add your address in the RETURN TO space on reverse

1. The following service is requested (check one).

☒ Show to whom and date delivered ¢

☐ Show to whom, date, and address of delivery ¢

☐ RESTRICTED DELIVERY
Show to whom and date delivered ¢

☐ RESTRICTED DELIVERY
Show to whom, date, and address of delivery. \$ ____
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Morris W. Mitchell

Box 48

Oakley, Idaho 83346

3. ARTICLE DESCRIPTION:

REGISTERED NO. CERTIFIED NO. INSURED NO.

054

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE

☐ Addressee

☐ Authorized agent

4

DATE OF DELIVERY

POSTMARK

2-20-79

5. ADDRESS (Complete only if requested)

you shall have

6. UNABLE TO DELIVER BECAUSE:

filled in your return
envelope in the post.

CLERK'S
INITIALS

45-7342 - US. Dept. Interior BLM

PS Form 3811, Apr. 1977

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

☒ Show to whom and date delivered. _____ c

☐ Show to whom, date, and address of delivery. _____ c

☐ RESTRICTED DELIVERY

Show to whom and date delivered. _____

☐ RESTRICTED DELIVERY

Show to whom, date, and address of delivery. \$ _____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

U.S. Dept. of Interior, BLM

Route #3 - Box 1

Burley, Idaho 83318

3. ARTICLE DESCRIPTION:

REGISTERED NO.

CERTIFIED NO.

INSURED NO.

053

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE

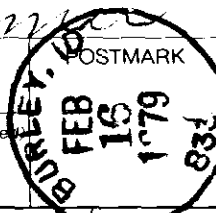
☐ Addressee

☐ Authorized agent

4. DATE OF DELIVERY

2-16-79

POSTMARK



5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP CODE in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Moisten gummed ends and attach to front of article if space permits. Otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300



RETURN
TO

IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN DISTRICT OFFICE
1041 BLUE LAKES BLVD. NORTH
TWIN FALLS, IDAHO 83301

RECEIVED

FEB 20 1973

(Name of Sender)

Department of Water Resources
Southern District Office

(Street or P.O. Box)

(City, State, and ZIP Code)

Name and
Address
of Sender

IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN DISTRICT OFFICE
1041 BLUE LAKES BLVD. NORTH
TWIN FALLS, IDAHO 83301

Indicate type of mail:
☐ REGISTERED ☐ REGISTERED
☐ C.O.D. ☐ C.O.D.
☐ CERTIFIED ☐ CERTIFIED

Affix stamp here if issued as certificate of mailing or for additional
copies of this bill.
POSTMARK AND DATE OF RECEIPT

*Postmark - 45-7342 - dept interior
L.I.M.*

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	REST. DEL. FEE	ACTUAL VALUE	HANDLING CHARGE	REMARKS*
1	053 us dept interior BLM	15	80	45				
2	054 marion w. mitchell	15	80	45				
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								

TOTAL NO. OF PIECES
LISTED BY SENDER

TOTAL NO. OF
PIECES REC'D AT P.O.

POSTMASTER, PER (Name of receiving employee)

*See under "Remarks" class postage paid if other than first or
if international

PS Form 3877, Dec. 1973

APPLICATION FOR REGISTERED, REGISTERED C.O.D. AND CERTIFIED MAIL

(Declaration of value is required on international registered mail)

★ U. S. GOVERNMENT PRINTING OFFICE: 1974-0-329-726

FORM MUST BE MADE OUT IN INK OR BALL POINT PEN

DEC 18 1974



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

February 15, 1979

Cassia County
Law Enforcement Center
129 East 14th Street
Burley, Idaho 83318

Attn: Bill Crystal

Dear Deputy Crystal:

This is to confirm the use of the conference room in the Law Enforcement Center, for conference and/or hearing to be held by this office on Wednesday, February 28, 1979 at 10:00 a.m.

Thank you for your cooperation in this matter

Sincerely,

Mary A. Hill

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

RECEIVED
FEB 16 1979



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

October 6, 1978

Mr. Morris W. Mitchell
P. O. Box 48
Oakley, Idaho 83346

Dear Mr. Mitchell:

Since our visit I have done some research relating to your concerns about the appropriation of water by the BLM. Section 42-212 of the Idaho Code, which states that the Department of Water Resources is prohibited from issuing a permit to appropriate water to anyone other than the owner of the land upon which a pond, pool or spring is wholly contained, does not apply to BLM land as it is public land. Therefore, the BLM would be required to file on the water in order to divert it for beneficial use.

Section 42-501, (copy enclosed) provides conditions by which the BLM may appropriate water for the purpose of watering livestock.

I was unable to find any case where a precedent had been set in a case similar to yours.

Where a spring does not reach an appropriated stream on the surface it would be very difficult to show how much of that water, if any, is infact tributary to the stream in question.

Please notify me as soon as possible if you still desire that a formal hearing on this application be held.

Sincerely,

Terry G. Blau
Senior Water Resource Agent

TGB:marya
Encl:

Oct 10 1978



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

May 19, 1978

Mr. Morris W. Mitchell
P. O. Box 48
Oakley, Idaho 83346

Re: Application for permit No. 45-7342 - U.S. Dept. of Interior, BLM

Dear Mr. Morris:

Your protest against the approval of the above-referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

If this office can be of further assistance, please contact us.

Sincerely,

Terry G. Blau
Southern Region Supervisor

TGB:sm

DEC 10 1978



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

May 19, 1978

U.S. Dept. of Interior, BLM
Route # 3, Box 1
Burley, Idaho 83318

Re: Application for Permit No 45-7342 - U.S. Dept. of Interior, BLM

Dear Sirs:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to your Application No. 45-7342. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

If this office can be of further assistance, please contact us.

Sincerely,

Terry G. Blau
Southern Region Supervisor

TGB:sm

REC-10
DEC 19 1994

P.O. Box 48
Oakley, Idaho 83346
11 May 1978

Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

RECEIVED

MAY 11 1978

Department of Water Resources
Southern Region

Dear Sirs:

I would like to protest application #45-7342 for a permit to appropriate .0334 cubic feet per second of water from Daren's Spring, tributary of Goose Creek within the SW/4, Section 21, Township 15S, Range 22E, Cassia County.

I own the JD Ranch and use the waters of Cold Creek, a tributary of Goose Creek which is fed from the above named spring under water permit #45 0151. The waters of Cold Creek are insufficient during most of our irrigating season and therefore protest the granting of water rights to the above named applicant.

I have not made an on-site inspection of the above named spring and if the information I have is not correct I would withdraw this protest after inspecting the site.

Sincerely


Morris W. Mitchell

REC-1

LET

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that U.S. Dept. of Interior, BLM
Burley, ID 83318
has on 4/17/78 submitted Application No. 45-7342
for a permit to appropriate .0334 cubic feet per second ~~gallons per second~~ per annum x
of water from Daren's Spring, tributary of Goose Creek
by means of headbox for collection, piped to trough, overflows back into draw
within the S¹/₄SW¹/₄, Sec. 21, Twp. 15S, Rge. 22E., B.M., Cassia County

to be used from Jan. 1 to Dec. 31 for wildlife and from May 1 to Oct. 30 for
~~for~~ livestock purposes

within the S¹/₄SW¹/₄, Sec. 21, Twp. 15S, Rge. 22E., B.M.

If issued, this permit will be subject to all prior water rights. Protests
against the granting of the permit must be filed with the Idaho Department of
Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or be-
fore May 19, 1978.

C. STEPHEN ALLRED

Director

Published in the South Idaho Press

on 5/2/78 and 5/9/78

DEC 19 1994

78-187

**NOTICE OF APPLICATION FOR
WATER PERMIT**

NOTICE IS HEREBY GIVEN that the U.S. Dept. of Interior, BLM, Burley, Idaho, 83318 has on 4/17/78 submitted Application No. 45-7342 for a permit to appropriate .0334 cubic feet per second of water from Daren's Spring, tributary of Goose Creek by means of headbox for collection, piped to trough, overflows back into draw within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 21, Twp. 15 So., Rge. 22 E., B.M., Cassia County to be used from Jan. 1 to Dec. 31 for wildlife and from May 1 to Oct. 30 for livestock purposes within the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 21, Twp., 15 So., Rge. 22 E., B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho, 83301 on or before May 19, 1978.

C. Stephen Alfred
Director

Published in the South Idaho Press
on 5/2/78 and 5/9/78.

DEC 19 1994

April 19, 1978

South Idaho Press
Box 190
Burley, ID 83318

Re: Application for Permit No. 45-7342 & 45-7343 - U. S. Dept. of Interior, BLM

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

Michael L. Steele
Southern Region Supervisor

MLS:sm

Enc.

DEC 19 1984