

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
65-13472 IN THE NAME OF U.S.)
DEPARTMENT OF INTERIOR, BUREAU)
OF LAND MANAGEMENT)

ORDER GRANTING
PETITION FOR RECONSIDERATION

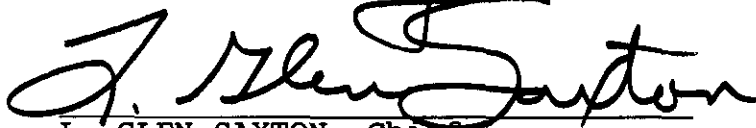
On December 27, 1994, The Idaho Department of Water Resources (department) issued a Preliminary Order Voiding Permit No. 29-08109 in the name of U.S. Department of Interior, Bureau of Land Management (permit holder).

On January 5, 1995, the permit holder submitted a Request for Reconsideration (request) to the department stating that water has been diverted and beneficially used as authorized by the permit even though the department's examination did not locate the development.

Based upon the information provided in the Petition for Reconsideration, IT IS HEREBY ORDERED as follows:

1. The petition of the permit holder is hereby **GRANTED**,
2. The Preliminary Order of the department dated December 27, 1994, is **SET ASIDE**, and
3. Permit No. 29-08109 is **REINSTATED**.

Dated this 13th day of January, 1995.


L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED

MAR 22 1995

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

IN THE MATTER OF PERMIT	)	
	)	
NO. 29-08109 IN THE NAME	)	PRELIMINARY ORDER VOIDING
	)	PERMIT
OF US DEPT OF INTERIOR	)	
_____	)	

This matter having come before the Department of Water Resources (Department) as a result of an examination by Department staff to determine the extent of beneficial use of water, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On September 10, 1992, The U.S. Department of Interior, Bureau of Land Management (permit holder) applied to the Department of Water Resources for a permit to appropriate 0.01 cubic feet per second of water from groundwater, within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, Township 08S, Range 40E, Section 03, B.M., Caribou County, to be used for stockwater purposes.
2. On December 10, 1992, the Department approved the Application for Permit.
3. On December 30, 1993, the permit holder submitted Proof of Beneficial Use for the permit.

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4. On May 5, 1994, Department staff conducted a field examination and found that water had not been diverted and put to a beneficial use as authorized by the permit.

5. The provisions of Section 42-219, Idaho Code, authorize the Director of the Department to void permits for which the applicant has not fully complied with the law and the conditions of the permit.

CONCLUSIONS OF LAW

1. Section 42-219, Idaho Code, provides, in part, as follows:

In the event that the Department shall find that the applicant has not fully complied with the law and the conditions of the permit, it may issue a license for that portion of the use which is in accordance with the permit, or may refuse issuance of a license and void the permit.

2. Permit No. 29-08109 required that the permit holder complete construction of works and apply water to the proposed beneficial use within the authorized permit period.

3. Examination by the Department revealed that the permit holder has not complied with the conditions of the permit and has not applied the water to the proposed beneficial use as required by the permit and Section 42-219, Idaho Code.

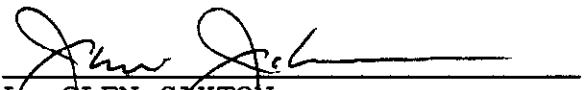
4. The Department should void the permit pursuant to Section 42-219, Idaho Code.

MAR 22 1995

ORDER

IT IS HEREBY ORDERED that Permit No. 29-08109 is **VOIDED** and issuance of a license is **REFUSED** as authorized in Section 42-219, Idaho Code.

Dated this 27TH day of December, 1994.


for L. GLEN SAXTON
Chief, Water Allocation Bureau

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DEC 30 1993
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have 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 a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 29-08109 Telephone No. 208-524-7500

2. Name(s) of Permit Holder(s): U.S.D.I., Bureau of Land Management

3. Mailing Address: 940 Lincoln Road, Idaho Falls, ID. 83401

4. Source of Water: Groundwater

If **GROUNDWATER**, Well Driller's Name: N/A (Previously drilled well) Date Drilled: N/A

OPTIONAL:

Pump horsepower: N/A Pressure (psi): N/A Dynamic pumping level (ft.): N/A

5. Extent of Use (as authorized by the permit):

Domestic _____ (No. of households) Stockwater 75 range cattle (No. and type of stock)

Irrigation _____ (No. of acres) Other 200 Deer, sharp-tail grouse, sage grouse

6. Total rate and/or volume for which proof is submitted 0.01 cfs OR _____ acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? _____ Yes X No Installed? _____ Yes _____ No
OR

Flow Measurement Port: Required? _____ Yes X No Installed? _____ Yes _____ No

8. Fee Enclosed: \$ 50.00 (See License Fee Schedule on back of Instruction Sheet)

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

Geoff Hogander 208-236-6860

Name Telephone No.

1111 N. 8th, Pocatello, Idaho 83201
Address

10. The above information 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.

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12/27/93
Date

Theresa J. Smith Acting ADWR Registrar
Signature (and title, if on behalf of a company or organization)

JAN 12 1994

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 29-08109

Proposed Priority: September 10, 1992 Maximum Diversion Rate: 0.01 CFS

This is to certify, that US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
940 LINCOLN RD
IDAHO FALLS ID 83401

has applied for a permit to appropriate water from: GROUNDWATER
and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
STOCKWATER	04/01 to 11/15	0.01 CFS
WILDLIFE	04/01 to 11/15	0.01 CFS
	Totals	0.01 CFS

LOCATION OF POINT(S) OF DIVERSION: SWNESW , Sec. 3, Township 08S, Range 40E
CARIBOU County

PLACE OF USE: STOCKWATER
TWN RGE SEC

08S 40E 4 NENE

PLACE OF USE: WILDLIFE, same as STOCKWATER use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before January 3, 1994.
2. Subject to all prior water rights.
3. The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
4. The Director retains jurisdiction of the right and any license subsequently issued to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
5. The issuance of this right in no way grants any right-of-way or easement across the land of another.
6. Stockwater use is for 75 range cattle.

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

10th day of December, 1992

MICROFILMED

DEC 15 1992

for

R. Keith Higginson

R. Keith Higginson, Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Chemstar Pipeline

To appropriate the public waters of the State of Idaho

1. Name of applicant U.S.D.I., Bureau of Land Management Phone 208-524-7500
Post office address 940 Lincoln Road, Idaho Falls 83401
2. Source of water supply Groundwater which is a tributary of N/A
3. Location of point of diversion is SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Govt. Lot _____
Sec. 3 Township 8S Range 40E B.M. Caribou County; additional
points of diversion if any: N/A
4. Water will be used for the following purposes:
Amount 0.01 cfs for Stockwater purposes from 4/1 to 11/15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.01 cfs for Wildlife Water purposes from 4/1 to 11/15 (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) 0.01 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Description of ditches, flumes, pumps, headgates, etc. Well with a pipeline to a livestock trough
and wildlife guzzler.
- b. Height of storage dam N/A feet; active reservoir capacity N/A acre-feet; total
reservoir capacity N/A acre-feet; period of year when water will be diverted to storage:
N/A to N/A inclusive.
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 90°F being sought? No.
7. Time required for the completion of the works and application of the water to the proposed beneficial use is
1 years (minimum 1 year).

DEC 15 1992

8. Description of proposed uses irrigation only, go to item 9;

- a. Hydropower; show total feet of head and proposed capacity in KW. N/A
- b. Stockwatering; list number and kind of livestock. 75 Range Cattle.
- c. Municipal; show name of municipality. N/A
- d. Domestic; show number of households. N/A
- e. Other; describe fully. 200 deer, sharp tail grouse, sage grouse.

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	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8S	40E	4	S																

Total number of acres to be irrigated N/A

10. Describe any other water rights used for the same purposes as described above. N/A

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

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

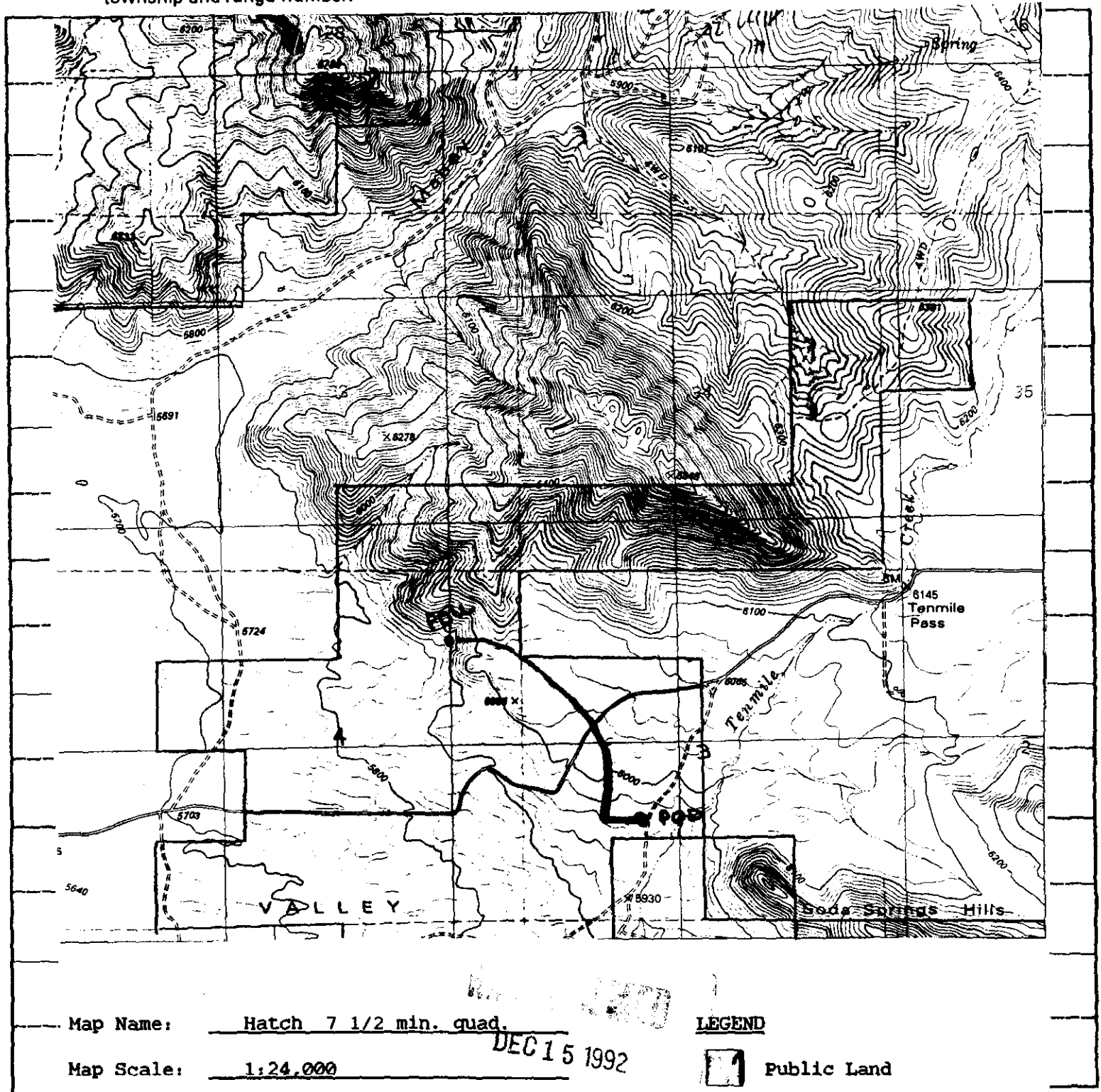
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. N/A

12. Remarks: Chemstar Lime has water right #29-8082 for mining purposes. BLM has granted Chemstar Lime a right-of-way for the well on public land with the stipulation that BLM be allowed 1 gallon per minute for livestock and wildlife purposes.

DEC 15 1992

29-8109

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



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] District Manager
(Applicant)

Received by SMD Date 0-92 Time 14:46 Preliminary check by _____
Fee \$ 30⁰⁰ Receipted by SMD # ED17845 Date 9-10-92
Publication prepared by R13 Date 10-1-8-92 Published in Caribou City Sun
Publication approved RB Date 11-12-92

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. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other:

PAID FOR MED

DEC 15 1992

Affidavit of Publication

County of Caribou }
State of Idaho } ss.

Mark Steele

being first duly sworn on his
oath, states:

That he is Publisher
of the Caribou County Sun, a
newspaper of general circula-
tion in Caribou County, Idaho,
published weekly at Soda
Springs in said County that said
newspaper has been published
in said County uninterruptedly
and continuously for over sev-
enty-eight consecutive weeks,
prior to the first publication of
the annexed notice or advertise-
ment;

That the annexed notice was
published as per clipping at-
tached in the regular and entire
edition of said newspaper and
not in any supplement thereof

for 2 successive weekly
issues thereof, the date of the
first publication being the

1st day of
October, 1992

The date of the last publication
being the 8th day of

October, 1992

On this 5th day of November

in the year of 1992 before

me, a Notary Public, personally
appeared

Mark Steele
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.

Clayton A. Smith
Notary Public for Idaho
Residing at Soda Springs, Idaho
My commission expires:

March 11, 1994

NOTICE OF PROTEST
The following protests
have been filed with the
public water control division of Idaho:

**USE: STOCKWATER (.010
CFS) WILDLIFE (.010 CFS) Total
Diversion 1.010 CFS**

**9401 E. 1000 N. ROAD
IDAHO FALLS, IDAHO 83401
Sandra G. Higgins, Owner
Division 2, Section 3
T 08S R 40E S 4 CARIBOU
COUNTY**

**Use: STOCKWATER (.010
CFS) WILDLIFE (.010 CFS) Total
Diversion 1.010 CFS
Date Filed 9/11/1992**

**In: CARIBOU COUNTY T08S
R40E S04 NENE**

**Protests will be subject to
all prior water rights. Protests must
be filed with the Director, Dept. of
Water Resources, Eastern Region,
150 Shoup Avenue, Suite 15, Idaho
Falls, Idaho 83402 on or before
OCTOBER 15, 1992.**

**(s) R. KEITH HIGGINSON
Director
Published October 1 and 8, 1992
in the Caribou County Sun.**

**RECEIVED
DEC 15 1992**

Affidavit of Publication

County of Caribou }
State of Idaho } ss.

Mark Steele

being first duly sworn on his
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That he is Publisher
of the Caribou County Sun, a
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Springs in said County that said
newspaper has been published
in said County uninterruptedly
and continuously for over sev-
enty-eight consecutive weeks,
prior to the first publication of
the annexed notice or advertise-
ment;

That the annexed notice was
published as per clipping at-
tached in the regular and entire
edition of said newspaper and
not in any supplement thereof

for 2 successive weekly
issues thereof, the date of the
first publication being the

1st day of
October, 1992

The date of the last publication

being the 8th day of
October, 1992

On this 5th day of November

in the year of 1992 before

me, a Notary Public, personally
appeared

[Signature]
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.

[Signature]
Notary Public for Idaho
Residing at Soda Springs, Idaho
My commission expires:

March 11, 1994

PUBLIC NOTICE

First Time Published

NOTICE OF APPLICATION FOR WATER RIGHT

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

29-08109

US DEPT. OF INTERIOR
BUREAU OF LAND MAN-
AGEMENT

940 LINCOLN ROAD
IDAHO FALLS, ID 83401

Source: GROUNDWATER

Diversion Pt: SWNESW Sec. 3
T 08S R 40E in CARIBOU
COUNTY

Use: STOCKWATER (.010
CFS) WILDLIFE (.010 CFS) Total
Diversion: (.010 CFS)

Date Filed: 9/10/1992

In: CARIBOU COUNTY T08S
R40E S04 NENE

The permit(s) will be subject to
all prior water rights. Protests must
be filed with the Director, Dept. of
Water Resources, Eastern Region,
150 Shoup Avenue, Suite 15, Idaho
Falls, Idaho 83402 on or before
OCTOBER 19, 1992.

(s) R. KEITH HIGGINSON
Director

Published October 1 and 8, 1992
in the Caribou County Sun.



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

January 18, 1995

PHILIP E. BATT
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

U S DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
940 LINCOLN RD
IDAHO FALLS, ID 83401

RE: Water Permit 29-08109

Dear Permit Holder(s),

Enclosed is an order granting Petition for Reconsideration. The Department will pursue trying to clarify if water in fact has been used on the property as identified in the permit and will be contacting you.

If you have any questions please give me a call at 208-327-7941.

Sincerely,

SHELLEY W. KEEN
Water Rights Supervisor

JJ:rl

Enclosure

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MEMORANDUM

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JAN 12 1995
Department of Water Resources

Date: January 9, 1995

To: Shelley Keen

From: Paul Meyer, Eastern Region

RE: Licensing Examination and Possible Lapsing of 29-08109

On May 5, 1994, I conducted an onsite licensing examination of 29-08109 held by the Bureau of Land Management. At the time, I was unable to find any evidence that the system was in place as described by the approved permit or proof of beneficial use. As a result, I recommended in my write-up of the exam that 29-08109 be lapsed.

Last week, I received a phone call from Deena Teal, Ecologist for the Idaho Falls District Office of the BLM. She explained that, at the time of submittal of proof of beneficial use, she was under the impression from co-workers that the system was in place. Ms. Teal explained that she recently learned that the permittee for the grazing allotment had died just prior to the submittal of proof and that the trough had not been installed. She indicated, however, that a guzzler had been installed at the place of use by Pat Terbilcox of Chemstar instead of the trough. She did not know when the guzzler was put in.

My major concern is not whether the guzzler exists, but when it was put in place. At the time of my examination, I was unable to find development, but I will contact Mr. Terbilcox this spring and arrange to go on-site to examine the guzzler to double-check my findings. I will also be requesting documentation to show when the guzzler was installed.

I recommend that we place a "hold" on lapsing 29-08109 until I can return on-site with Mr. Terbilcox this spring.



MAR 2 2 1995



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Idaho Falls District Office
940 Lincoln Road
Idaho Falls, Idaho 83401



IN REPLY REFER TO:

7250

January 4, 1995

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JAN 05 1995

Department of Water Resources
Eastern District Office

Paul Meyer
Idaho Department of Water Resources
900 N. Skyline Dr.
Idaho Falls, Idaho 83402

RE: The Preliminary Order to Cancel Permit No. 29-08109

Dear Mr. Meyer:

Although Proof of Beneficial Use was submitted on the Chemstar Pipeline on 12/30/93, I learned today that the grazing permittee died prior to this submission, and the livestock trough was never installed. According to the wildlife biologist in our Pocatello office, the wildlife guzzler was installed and is functioning well. Pat Terbilcox of Chemstar installed the guzzler for us and should be contacted for further field investigations. Please let me know as soon as possible if the BLM needs to take any additional action to maintain this permit. I can be reached at (208) 524-7533.

Sincerely,

Deena Teel
Ecologist

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JAN 12 1995

Department of Water Resources

APPROVED

MAR 22 1995

M E M O R A N D U M

DATE: January 4, 1995

TO: File 29-08109

FROM: Shelley W. Keen *SWK*

RE: BLM Response to Preliminary Order Voiding Permit

=====

This morning Paul Meyer of IDWR's Eastern Region called to say that BLM has contacted him in response to our Preliminary Order Voiding Permit. According to Paul, the BLM's contractor assures the agency that the stockwater development covered by this permit is in place. Paul said he agreed to a re-examination in the spring. He also solicited a written petition for reconsideration from the BLM.

Paul and I also discussed the need for BLM to demonstrate that the development was in place before they submitted proof of beneficial use.

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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

December 27, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

US DEPARTMENT OF INTERIOR
BUREAU OF LAND MANAGEMENT
940 LINCOLN RD
IDAHO FALLS ID 83401

RE: Permit No. 29-08109

Dear Permit Holder:

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. Otherwise, this preliminary order will become a final order of the agency.

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.

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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

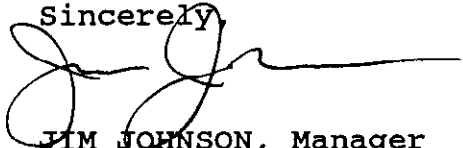
MAR 22 1995

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.

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:dc

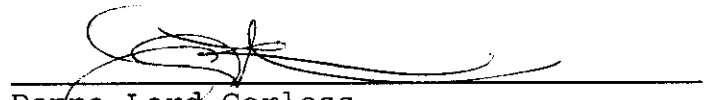
Enclosure

MAR 22 1995

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 28th day of December, 1994, I mailed a true and correct copy, postage prepaid, of the foregoing Preliminary Order to the following:

U.S. Department of Interior
Bureau of Land Management
940 Lincoln Road
Idaho Falls, ID 83401



Donna Lord Corless
Clerical Specialist

MAR 22 1995

RECEIVED

DEC 08 1994

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

NO DEVELOPMENT

A. GENERAL INFORMATION

Permit No. 29-08109

1. United States Department of Interior
Bureau of Land Management
940 Lincoln Road, Idaho Falls, ID 83401

Phone: (208) 524-7500

2. Accompanied by: — EXAM DATE : 5-5-1994

Address: _____ **Phone No.** _____

Relationship to Permit Holder:

3. Source: GROUNDWATER tributary to

B. OVERLAP REVIEW

1. Other water rights with the same place of use: ---

2. Other water rights with the same point of diversion: 29-023053, 29-08082

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

[illegible]

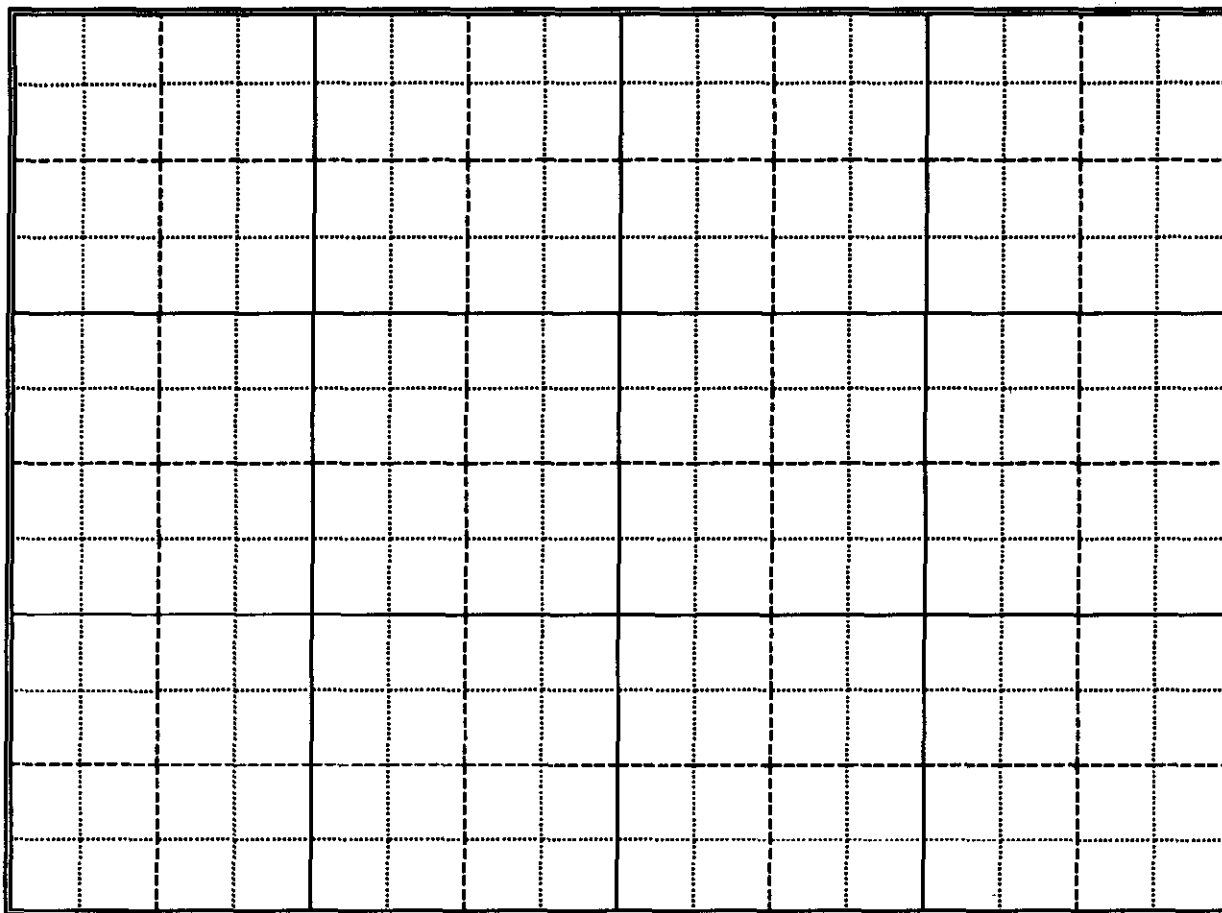
2. Place(s) of Use:

Indicate Method of Determination

[illegible]

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MAR 22 1895

3. **Delivery System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe I.d. as applicable.



Scale: 1" = _____

_____ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

_____ Aerial Photo Attached (required for irrigation of 10+ acres)

_____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements: _____

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MAR 22 1985

REC 36 503

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Fig. 1 - Point of diversion supplying only 29-02305B, 29-08082.
No development for use permitted under 29-08109.

29-08109
29-08109

29-08109

E. NARRATIVE/REMARKS/COMMENTS

NO DEVELOPMENT FOR PERMITTED USE FOUND AT TIME OF EXAM
POINT OF DIVERSION SUPPLIES WATER FOR 29-023058 AND
29-08082.

NO STOCKWATER DEVELOPMENT FOUND.

RECOMMEND FOR LEASING DUE TO LACK OF BENEFICIAL USE.

Have conditions of permit approval been met? ☐ yes ☒ no

MICROFILMED
MAR 22 1995

F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method:

_____**G. VOLUME CALCULATIONS****1. Volume Calculations for Irrigation:** $V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____ $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____ $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____**2. Volume Calculations for Other Uses:**

_____**H. RECOMMENDATIONS****1. Recommended Amounts**

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
LAPSE	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals:			_____	_____

2. Recommended Amendments

____ Change P.D. as reflected above ____ Add P.D. as reflected above ____ None
____ Change P.U. as reflected above ____ Add P.U. as reflected above ☒ Other LAPSE

I. AUTHENTICATIONField Examiner's Name ROBERT MEYER Date 11-29-94Reviewer Keith C. Wilson Date 12/5/94SEAL
MICROFILMED
MAR 22 1995

January 11, 1994

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
940 LINCOLN RD
IDAHO FALLS ID 93401

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NOS. 33-07209, 32-07235, 29-08109, 11-07404,
23-07162, 31-07568, 32-07236

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use forms submitted for the above referenced permits. 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 EASTERN Regional Office in Idaho Falls, at (208)525-7161.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

c: IDWR - Region

RECORDED

JAN 12 1994

October 31, 1993

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
940 LINCOLN RD
IDAHO FALLS ID 83401

PROOF DUE NOTICE

RE: PERMIT NO. 29-08109

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 January 1, 1994. (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.

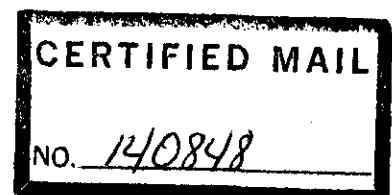
SINCERELY,

Karen L. Gustafson
Secretary/Records Manager

Enclosures

RECEIVED

JAN 12 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

December 10, 1992

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
940 LINCOLN RD
IDAHO FALLS ID 83401

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 29-08109

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit. Also enclosed is a form entitled "Proof of Beneficial Use". If your project is already completed you should complete and submit this form immediately.

You should be aware that you are located within a drainage basin where surface water diversions are regulated by a watermaster. It is possible that diversion of groundwater under your permit may cause a reduction of surface water flow. Siting your well as far as possible from surface water channels and casing your well so that groundwater tributary to surface water flows are not diverted will reduce the potential for the watermaster to regulate your water use.

Sincerely,

A handwritten signature in cursive script that reads "Brenda L. Miller".

BRENDA L. MILLER
Water Resource Agent

A rectangular stamp with the word "RECEIVED" in a bold, sans-serif font. The stamp is slightly tilted and has a textured, ink-like appearance.

DEC 15 1992

BLM:cz

Enclosures

APPLICATION FOR PERMIT REVIEW

BTM

Application #: 29-8109 Date: 12-8-92 Reviewer: Brenda Miller

SYSTEM COMPLETED:

- No - 26A-P17
 Complete in 1 year - P16
 Yes
 Proof not submitted - P16
 Proof submitted - N/A

AREA OF CONCERN?

YES
SNAKE RIVER BASIN

GROUNDWATER:

- GT. 0.2 cfs <flo-ch> - 01G-P03, 01C-P03 (existing well)
 - No measurement required <flow chart>
 LT. 0.2 cfs - No measurement required <flow chart>
 Drilling Permit:
 Approved w/permit - P99 Chemstar Lime's Well
 Not included - 046-46A-46B-P23 (after 7/1/87), N/A
 SURFACE WATER: not in w/d - 01C-P03 (=GT.2 w/pump), NMR <flow chart>

LOCATION:

- Water Districts - WD No. 294
 Surface water - R04, R04-01H-P01(LT.2 w/pump)
 - R04-01J-P08(GT.2), NMR <flow chart>
 Groundwater - P05
 Irrigation Districts - 023
 Canal Co. Areas - 023
 Drainage Districts - 024
 Boise Front (63) - 058 (Groundwater)
 Swan Falls Flag - 1 (1, Blank or Other)
 Trust - 051-052-053-P74(Consumptive Uses)
 Non Trust <1> - 048-049

RIVER BASINS:

- (Surface Water) Water District Control Condition &....
 Boise (63) - 05A & 11E
 Payette (65) - 047-P04, 059-P71
 Snake (01, 02 & 03) - 11A-P04(01), 061-P07(02/03 No W.D.Cond.)

USE:

- Fish Propagation - 06A, 09E-P10 & 010 (WQ/Choose One),
 042(req.), 002-P06(MD), 07A(Spec.),
 044(Policy 5G)
 Power - Use Power Review
 Mining - 06A, 010, or 09E-P10 & 054(req.)
 Storage - 18A-for multiple measuring devices(In WD),
 18B-P09(Size)
 Rec/Wildlf/Aes - 027(Non-Consumptive)
 Domestic - 021 (Boise River - upstream from L Peak)
 (restricted areas) 27A (Payette River & main tributaries)

OWNERSHIP:

- Non land owner - 004

PROTESTED:

- Agreement - 020

Beneficial Use Due Date -

Other Conditions/Remarks: -

Because of Agreement with Chemstar
 Lime
01-03-1994

25-Sep-1992

USDI BLM
940 LINCOLN RD
IDAHO FALLS, ID 83401

RE: Application No. 29-08109

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in the Caribou County Sun on October 1 & 8, 1992. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in about five weeks. State Office Personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please feel free to contact this office if you have any questions regarding this procedure.

Sincerely,


Harold W. Jones ^{rb}
Water Right Supervisor

HWJ:rb

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DEC 15 1992

S T A T E O F I D A H O
DEPARTMENT OF WATER RESOURCES
Eastern Region
150 Shoup Ave., Suite 15

Idaho Falls, Idaho 83402
(208) 525-7161

SEPTEMBER 23, 1992

CARIBOU COUNTY SUN
P.O. BOX 815
SODA SPRINGS, ID 83276

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. 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. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before OCTOBER 19, 1992.

Yours truly,

Rita Bodell
Secretary

Encl.

RECEIVED

DEC 15 1992

NOTICE OF APPLICATION FOR WATER RIGHT

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

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DEC 15 1992

29-08109

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
940 LINCOLN RD
IDAHO FALLS, ID 83401

Source: GROUNDWATER

Diversion Pt: SWNESW Sec 3 T 08S R 40E in CARIBOU County.

Use: STOCKWATER (.010 CFS)
WILDLIFE (.010 CFS)
Total Diversion: (.010 CFS)

Date Filed: 9/10/1992

In: CARIBOU County
T08S R40E S04 NENE

NOTICE OF APPLICATION

FOR WATER RIGHT

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

29-08109

US DEPT. OF INTERIOR
BUREAU OF LAND MAN-
AGEMENT

940 LINCOLN ROAD
IDAHO FALLS, ID 83401

Source: GROUNDWATER

Diversion Pt: SWNESW Sec. 3
T 08S R 40E in CARIBOU
COUNTY

Use: STOCKWATER (.010
CFS) WILDLIFE (.010 CFS) Total
Diversion: (.010 CFS)

Date Filed: 9/10/1992

In: CARIBOU COUNTY T08S
R40E S04 NENE

The permit(s) will be subject to
all prior water rights. Protests must
be filed with the Director, Dept. of
Water Resources, Eastern Region,
150 Shoup Avenue, Boise, ID 83725.

Falls, Idaho 83402 on or before
OCTOBER 19, 1992.

(s) R. KEITH HIGGINSON

Director

Published October 1 and 8, 1992

Idaho County Sun.

MICROFILMED

DEC 15 1992

29-08109

US DEPT OF INTERIOR
BUREAU OF LAND MANAGEMENT
940 LINCOLN RD
IDAHO FALLS, ID 83401

Source: GROUNDWATER

Diversion Pt: SWNESW Sec 3 T 08S R 40E in CARIBOU County.

Use: STOCKWATER (.010 CFS)
WILDLIFE (.010 CFS)
Total Diversion: (.010 CFS)

Date Filed: 9/10/1992

In: CARIBOU County
T08S R40E S04 NENE

PUBLIC NOTICE

**NOTICE OF APPLICATION
FOR WATER RIGHT**

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

29-08109

US DEPT. OF INTERIOR
BUREAU OF LAND MAN-
AGEMENT

940 LINCOLN ROAD

IDAHO FALLS, ID 83401

Source: GROUNDWATER

Diversion Pt: SWNESW Sec. 3
T 08S R 40E in CARIBOU
COUNTY

Use: STOCKWATER (.010
CFS) WILDLIFE (.010 CFS) Total
Diversion: (.010 CFS)

Date Filed: 9/10/1992

In: CARIBOU COUNTY T08S
R40E S04 NENE

The permit(s) will be subject to
all prior water rights. Protests must
be filed with the Director, Dept. of
Water Resources, Eastern Region,
150 Shoup Avenue, Suite 15, Idaho

Falls, Idaho 83402 on or before
OCTOBER 19, 1992.

(s) R. KEITH HIGGINSON
Director

Published October 1 and 8, 1992
in the Caribou County Sun.

DEC 1 1992

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Eastern Region, 150 Shoup Avenue, Suite 15, Idaho Falls, Idaho 83402 on or before OCTOBER 19, 1992.

R. KEITH HIGGINSON, Director

Published: 9/30/1992 & 10/ 7/1992

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DEC 15 1992