

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**  
To appropriate the public waters of the State of Idaho  
No. 37-23594

1. Applicants

Dillon Wilmer  
PO Box 5005  
Ketchum, ID 83340  
2087211293  
dillonwilmer@hotmail.com

**RECEIVED**  
AUG 22 2024 7-17-2024  
DEPT. OF WATER RESOURCES online  
SOUTHERN REGION

2. Representatives

Submitter is one of the applicants.

3. Source of Water Supply

Source : GROUND WATER

4. Location of Point(s) of Diversion

POD #	Source	Tributary Of	Diversion Type	Township	Range	Section	Govt Lot	QQQ/QQ/Q	County
1	GROUND WATER			05N	17E	23		/SE/SE	BLAINE

5. Water will be used for the following purposes:

Purposes	Season	Rate	Volume	Description
DOMESTIC	01/01 to 12/31	0.04 cfs	0.00 afa	domestic use

6. Total quantity to be appropriated is (a) 0.04 cfs and/or 0 afa

7. Proposed Diverting Works:

POD No :1  
Description: yet-to-be installed drilled well with pipe to yet-to-be constructed house  
Well Depth :0.00  
Well Diameter :0.00  
Geothermal Water :False  
Water Bearing Zone Start:0.00  
Water Bearing Zone End:0.00

8. Description of Place Of Use:

DOMESTIC							
Township	Range	Section	QQ	Q	County	Govt Lot	Acres
05N	17E	23	SE	SE	BLAINE		

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping.  
none

10. Land Ownership

- o Who owns the land to be irrigated or place of use? Applicant
- o Who owns the land at the point of diversion? Applicant

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.

planning to construct a single-family residence on the new lot

13. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum is 1 year).

# Application for Permit 37-23594 Witmer



## Legend

-  Township/Range
-  Sections
-  QQ
-  Parcels

0 0.02 0.04 0.08 Miles

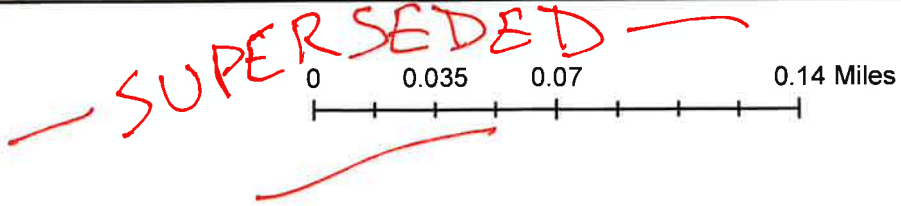
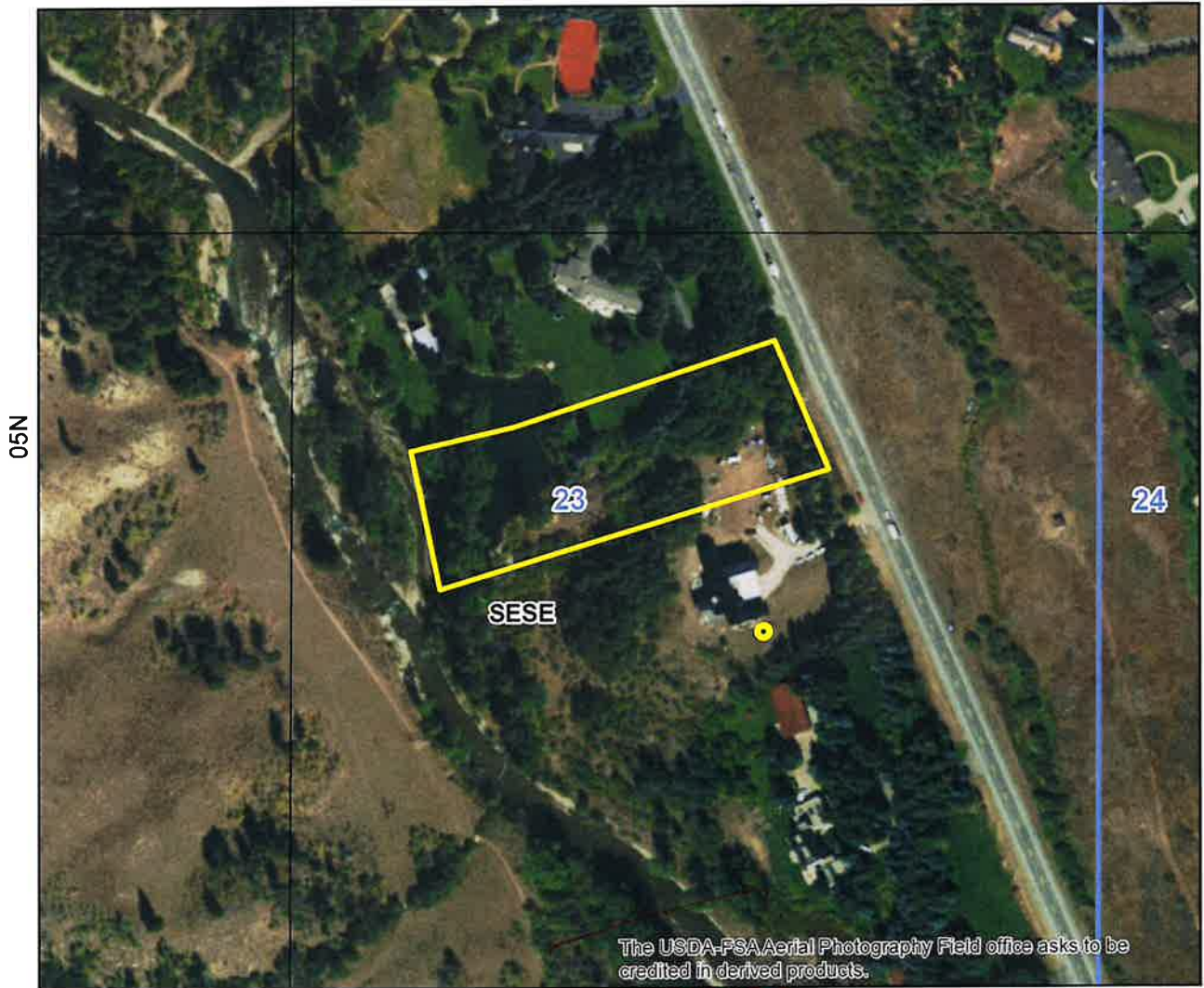
**37-23594**

*AMENDED*



State of Idaho  
Department of Water Resources  
**Application For Permit**  
37-23594

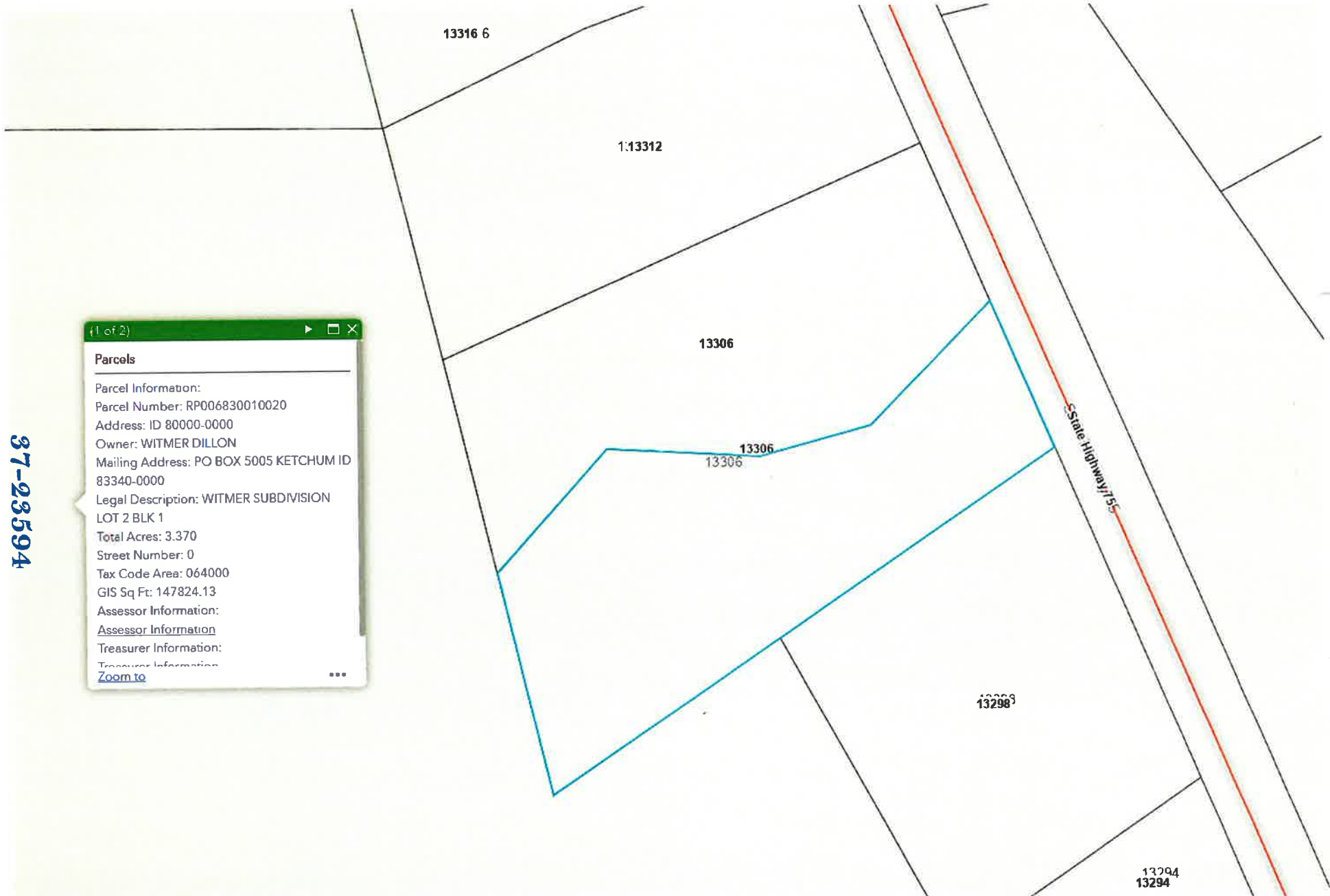
17E



- Point of Diversion
- ▭ Place Of Use Boundary
- ▭ Townships
- ▭ PLS Sections
- ▭ Quarter Quarters
- ▭ State Outline



37-23594



(1 of 2) [Close] [Maximize] [Refresh]

**Parcels**

Parcel Information:

Parcel Number: RP006830010020  
Address: ID 80000-0000  
Owner: WITMER DILLON  
Mailing Address: PO BOX 5005 KETCHUM ID 83340-0000  
Legal Description: WITMER SUBDIVISION LOT 2 BLK 1  
Total Acres: 3.370  
Street Number: 0  
Tax Code Area: 064000  
GIS Sq Ft: 147824.13

Assessor Information:

[Assessor Information](#)  
[Treasurer Information](#)  
[Treasurer Information](#)  
[Zoom to](#) ...

County Parcel map w/o Imagery  
37-23594

LEGAL NOTICES

As required by Idaho Code 50-222 and 50-223, the Carey Planning & Zoning Commission will consider the annexation at a public hearing and make a recommendation to the City Council at their own public hearing will make the final decision on the application. Information pertinent to this application is available for review upon request at the Carey City Hall or via email.

Written comments must be received by 5 p.m. Monday, September 30, 2024 at Carey City Hall 20482 N Main St, Carey, Idaho 83320. You may also email a response to pandzadmin@cityofcarey.org. Verbal and written comments will be heard during the public hearing. Please contact City Hall during business hours to access the meeting online or call-in.

Se invita al público a asistir y testificar en relación con la acción propuesta o también se pueden presentar comentarios por escrito a la Ciudad. Póngase en contacto con el ayuntamiento si desea solicitar ayudas para la comunicación, servicios u otras adaptaciones para su participación.

Al ser solicitada, ésta notificación puede ser proveída en un formato fácil de usar para personas con discapacidades y/o personas con conocimientos limitados del Inglés.

PUBLISH IDAHO MOUNTAIN EXPRESS SEPTEMBER 18 & 25, 2024

LEGAL NOTICE In the District Court of Douglas County, Nebraska

TO: Stanley Air Taxi, Inc. whose whereabouts are unknown and upon whom personal service of summons cannot be had. Defendant in said proceedings.

YOU ARE NOTIFIED that on July 11, 2023, a Complaint was filed against you in the District Court of Douglas County, Nebraska, Case Number CI 23-5438, by Czar, Inc., Plaintiff. The object and prayer of the Complaint is to quiet title in itself in a Cessna Aircraft Model U206B, registered as N3431L, Serial Number U206-0731, plus Plaintiff's costs, and all other relief afforded by Nebraska law.

You are required to answer the said Complaint on or before the 1st day of November, 2024, or all allegations contained in the Complaint against you will be taken as true.

PUBLISH IDAHO MOUNTAIN EXPRESS SEPTEMBER 18, 25 & OCTOBER 4, 2024

LEGAL NOTICE BLAINE COUNTY HEARING EXAMINER October 3, 2024, at 5:30 P.M.

On Thursday, October 3, 2024, the Blaine County Hearing Examiner will hold a public meeting beginning at 5:30 p.m. on the first floor of the County Courthouse Annex Building located at 219 First Avenue South in Hailey, Idaho. (Entrance is on the south side of the building on Walnut Street.) Public comment will be taken and entered into the record for the

public hearing on the following:

ACTION ITEM: 30 Gimlet Rd - Floodplain and Wetland Conditional Use Permit: Public hearing and consideration of an application by James Daverman requesting approval for a Floodplain and Wetland Conditional Use Permit to install a flood protection wall within the wetland setback and floodplain. The property is zoned Planned Residential Development District (R-2) with areas of floodplain, riparian setback, wetland, wellhead protection, and wildlife overlay districts and is described as Lot 18 of Gimlet Subdivision #10.

ACTION ITEM: - 109 Triumph Circle - Variance: Public hearing and consideration of an application by Miller Huntington Judge requesting a Setback Variance for the side yards and front setbacks, for a remodel with a new foundation to an existing house. The lot is .045 acres, and is zoned R-4, within Wellhead Protection Overlay. Legal description, Lot 5, Block 3 Amended Wooden Hill Subdivision in the town of Triumph.

ACTION ITEM: - 202 Cottonwood Drive - Variance: Public hearing and consideration for a Variance application on Lake Creek Sub Lot 4, Blk3 by George D and Christina Berridge to address the parcel's existing encroachments into the required rear setbacks per Blaine County Zoning Code. The property is .46 acres, zoned Low Density Residential District (R-1), and within the Mountain Overlay District SC 1 and Wellhead Protection Overlay.

This meeting is open to the public. The agenda will be posted on the Blaine County website https://www.co.blaine.id.us/AgendaCenter by the Thursday prior to the hearing. Please check the meeting agenda for further instructions for digital access.

The materials for this hearing are available at Land Use and Building Services at 219 First Avenue South, in Hailey and on the Blaine County webpage at www.blainecounty.org. Written comment in excess of one page should be forwarded to Blaine County at least 4 days prior to public hearing by mail or email to pzcounter@co.blaine.id.us.

PUBLISH IDAHO MOUNTAIN EXPRESS SEPTEMBER 18, 2024

PUBLIC NOTICE

BLAINE COUNTY COMMISSIONERS TO DETERMINE IF TRANSFER OF BLAINE COUNTY-OWNED PROPERTY TO IDAHO STATE POLICE FORENSIC LAB IS IN THE PUBLIC INTEREST

On Tuesday, October 1, 2024, at 9:00 a.m., in the Old County Courthouse in Hailey, Idaho, the Board of County Commissioners will consider a proposed resolution to determine if a transfer of certain property to Idaho State Police Forensic Lab is in the public interest, pursuant to Idaho Code Section 31-808(9).

Under the proposed transfer, Blaine County would transfer its personal property to Idaho State Police Forensic

Lab for public use.

The County's personal property is described as follows: Alcotest 9510 Breathalyzer

PUBLISH IDAHO MOUNTAIN EXPRESS SEPTEMBER 18, 2024

LEGAL NOTICE BLAINE COUNTY BOARD OF COMMISSIONERS October 8, 2024, at 1:30p.m.

On Tuesday, October 8, 2024, at 1:30p.m., the Blaine County Board of County Commissioners will hold a public meeting upstairs in the Old County Courthouse located at 206 First Ave. So., in Hailey. Agenda items include the following:

ACTION ITEM: Glendale Industrial Condominiums Tax Lot 8655, FR N1/2 NENE, Sec. 23 T1N R18E: Public hearing and consideration of a Short Plat Subdivision application, preliminary plat, by Glendale Industrial, LLC to subdivide 154 self-storage units and 8 light industrial units into condominiums. The parcel is 20-acres, zoned Light Industrial (LI) District with areas of Floodplain/Floodway, and Riparian Setback Overlay Districts.

This meeting is open to the public. The meeting agenda will be posted to the Blaine County website at https://www.co.blaine.id.us/AgendaCenter by the Thursday prior to the hearing. Please check the meeting agenda for instructions for digital web access.

Meeting materials are available at Land Use and Building Services at 219 First Avenue South, Hailey and on the Blaine County website at https://www.co.blaine.id.us/199. Written comments in excess of one page should be submitted at least 4 days prior to the public hearing by mail, e-mail to pzcounter@co.blaine.id.us.

Si habla español y necesita asistencia para leer o entender lo que se discute en esta carta, por favor de llamar la Oficina de Uso de la Tierra al (208) 788-5570 o mande un correo electrónico pzcounter@co.blaine.id.us y pregunte por Sonia.

PUBLISH IDAHO MOUNTAIN EXPRESS SEPTEMBER 18, 2024

NOTICE OF PUBLIC HEARING

The Sun Valley City Council will hold a public hearing during their regular meeting on Thursday, October 3rd, 2024, at 4:00 PM in City Hall Council Chambers, 81 Elkhorn Road, Sun Valley, ID to hear comments from the public regarding the following land use application:

SUBPA 2024-04: Plat Amendment to amend the Building Envelope. Applicant: Galena-Benchmark Engineering for property owner George Dempsey. Location: 116 Sunrise Drive (Sunrise At Elkhorn Lot 7)

Application materials are available for review by emailing cdcounter@sunvalleyidaho.gov and public comment may be submitted to nlanigan@sunvalleyidaho.gov. The meeting agenda and staff report will be available at www.

sunvalleyidaho.gov in advance of the October 3rd meeting.

PUBLISH IDAHO MOUNTAIN EXPRESS SEPTEMBER 18, 2024

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATERS

The following application(s) have been filed to appropriate the public waters of the State of Idaho: 37-23594

DILLON WITMER PO BOX 5005 KETCHUM, ID 83340-5060 Point of Diversion SESE S23 T05N R17E BLAINE County Source GROUND WATER Tributary Use: DOMESTIC 1/1 to 12/31 0.04 CFS Total Diversion: 0.04 CFS Date Filed: 07-17-2024 Place Of Use: DOMESTIC T05N R17E S23 SESE

Application proposes diversion of up to 0.04 cfs from a proposed well for domestic use. The water is for in-house (culinary) use only and the wastewater will be discharged into a private septic system. Irrigation will be provided by existing ground water right 37-7296A. The place of use and point of diversion are located approximately 4.4 miles north and 1.2 miles west of the intersection of Main Street and Sun Valley Road in Ketchum. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 89217

FLYING SQUIRREL PRODUCTIONS LLC, PO BOX 4938, KETCHUM, ID 83340-4940 has filed Application No. 89217 for changes to the following water rights within BLAINE County(s): Right No(s) 37-21863, 37-21880, 37-21897, 37-21914, 37-21931, 37-21976. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the place of use (POU) and point of diversion (POD) for a 9.0 acre portion of a ground water irrigation right, and change the POU of a 9.0 acre portion of five companion Big Wood River irrigation rights, all with a total flow rate of 0.321 cfs. The POU will move to adjacent property located approximately 2.3 miles south and 0.3 mile east of the intersection of Main Street and Gannett Road in Bellevue. The ground water POD will be moved to an existing well located within the proposed POU, while the surface water rights will retain their present POD.

Permits will be subject to all prior water rights. For additional information concerning the property locations, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see https://research.idwr.idaho.gov. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water

Resources, Southern Region, 650 ADDISON AVE W, STE 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before October 7, 2024. The protestant must also send a copy of the protest to the applicant.

MATHEW WEAVER, Director

PUBLISH IDAHO MOUNTAIN EXPRESS SEPTEMBER 18 & 25, 2024

NOTICE OF PUBLIC HEARING BEFORE THE KETCHUM CITY COUNCIL

Meeting Date: October 7, 2024 Meeting Time: 4:00 PM, or thereafter as the matter can be heard.

Meeting Location: City Hall Council Chambers, 191 5th St W, Ketchum, Idaho. The meeting will be livestreamed at www.ketchumidaho.org/meetings. Public comment may be given in person or remotely when the public comment portion of the meeting for this item is open. The link to join the webinar for the meeting is: https://ketchumidaho-org.zoom.us/j/83927708304 Webinar ID: 839 2770 8304. This information can also be found on the meeting agenda.

Project Name: Jade Subdivision Project Location: 205 Jade Street (Tax Lots 2511 & 5101)

Zoning: Limited Residential (LR), Mountain Overlay (MO) Representative: Bruce Smith, Alpine Enterprises Inc.

Property Owner: Gannon Michael Tidwell; Matt G Dill Application Type: Readjustment of Lot Lines (Lot Line Shift) application (P24-061)

Project Description: The Ketchum City Council will hold a public hearing to hear public input, consider, and take action on a Lot Line Shift application to modify the boundary line from a vertical to a horizontal plane and create equal lot sizes. The newly created Lot 1 and Lot 2 will both be 14,609 square feet in size. Lot 1 will feature a new waterline easement, ditch maintenance easement, and an access and utility easement. Lot 2 will feature a new waterline easement, ditch maintenance easement, and underground power line easement.

A copy of the Staff Report will be available on the City website at the following link https://ketchumidaho.org/meetings. The meeting will be livestreamed with the video feed accessible at the same link at 4:00 p.m. the day of the meeting.

NOTICE IS FURTHER GIVEN that, at the aforementioned time, all interested persons shall be given an opportunity to comment on the matter stated above. Comments and questions prior to the hearing may be directed to the Ketchum Department of Planning and Building, P.O. Box 2315, Ketchum, Idaho, 83340 or via email to participate@ketchumidaho.org. Written comments received by 5:00 PM, seven (7) days prior to the hearing will be included as an attachment to the staff report. For additional information, please call (208) 726-7801.

PUBLISH IDAHO MOUNTAIN EXPRESS SEPTEMBER 18, 2024

Corrected proof of legal notice received from Idaho Mtn Express 9/16/2024

✓ OK DM 9-16-2024

LEGAL NOTICES

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Se invita al público a asistir y testificar en relación con la acción propuesta o también se pueden presentar comentarios por escrito a la Ciudad. Póngase en contacto con el ayuntamiento si desea solicitar ayudas para la comunicación, servicios u otras adaptaciones para su participación.

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You are required to answer the said Complaint on or before the 1st day of November, 2024, or all allegations contained in the Complaint against you will be taken as true.

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PUBLISH IDAHO MOUNTAIN EXPRESS SEPTEMBER 18, 2024

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PUBLISH IDAHO MOUNTAIN EXPRESS SEPTEMBER 18, 2024

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irrigation right, and change the POU of a 9.0 acre portion of five companion Big Wood River irrigation rights, all with a total flow rate of 0.321 cfs. The POU will move to adjacent property located approximately 2.3 miles south and 0.3 mile east of the intersection of Main Street and Gannett Road in Bellevue. The ground water POD will be moved to an existing well located within the proposed POU, while the surface water rights will retain their present POD.

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MATHEW WEAVER, Director

PUBLISH IDAHO MOUNTAIN EXPRESS SEPTEMBER 18 & 25, 2024

This title goes right above the line starting with "Flying Squirrel Productions..."

Proof of legal notice from Idaho Mtn Express received 9/13/2024

Please see changes. DM 9/16/2024



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

September 13, 2024

DILLON WITMER  
PO BOX 5005  
KETCHUM, ID 83340-5060

RE: Application for Permit No. 37-23594

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the **IDAHO MOUNTAIN EXPRESS on 9/18/2024 and 9/25/2024**. Protests to this application may be submitted for a period ending ten (10) days after the second publication. Any protest against this application must be filed with the Department of Water Resources, together with a protest fee of \$25.00 for each application, on or before **October 7, 2024**.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Denise Maline  
Administrative Assistant

c: Heather O'Leary, attorney

## Maline, Denise

---

**From:** Maline, Denise  
**Sent:** Friday, September 13, 2024 2:25 PM  
**To:** Sunny (WD37)  
**Cc:** Brittany (WD37)  
**Subject:** Comment Letter for Transfer No. 89217 (Flying Squirrel Productions LLC) and new App for Permit No. 37-23594 (Witmer)  
**Attachments:** Comment letter to WD37 for 89217 & 37-23594.docx; Transfer No. 89217 Flying Squirrel Productions.pdf; 37-23594 Witmer.pdf

Good afternoon Sunny,

Attached is an application for permit and an application for transfer, both within WD37 currently being processed by the department. Please review the applications and provide any necessary comments within 21 days.

If you have any questions regarding this information, please feel free to contact Jim Bitzenburg at our office.

Thank you in advance & have a great weekend,

Denise @ IDWR Twin Falls



Denise Maline, Administrative Assistant I  
Idaho Dept. of Water Resources, Southern Region  
650 Addison Ave W Ste 500  
Twin Falls ID 83301-5858  
(208) 293-9908  
[denise.maline@idwr.idaho.gov](mailto:denise.maline@idwr.idaho.gov)



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: [southerninfo@idwr.idaho.gov](mailto:southerninfo@idwr.idaho.gov) • Web: [idwr.idaho.gov](http://idwr.idaho.gov)

**Governor Brad Little**

**Director Mathew Weaver**

September 13, 2024

SUNNY HEALEY  
WATER DISTRICT 37  
107 W 1ST  
SHOSHONE, ID 83352

Re: Transfer No. 89217 (Flying Squirrel Productions LLC)  
Water Right No(s). 37-21863, 37-21880, 37-21897, 37-21914, 37-21931, 37-21976

Re: Application for Permit No. 37-23594 (Dillon Witmer)

Dear Sunny:

The Idaho Department of Water Resources (IDWR) is seeking written comment and/or recommendations from you regarding the above referenced water right application. You can find a copy of the application at: <https://idwr.idaho.gov/apps/ExtSearch/WRAJSearch/WRADJSearch.aspx>. Please review the application, then complete the enclosed recommendation form and return it to this office within 21 days of the date of this letter.

If the application is approved, IDWR will include appropriate standard conditions of approval for a water right located within a water district, such as regulation by the watermaster, lockable controlling works, and/or measuring devices. Any special conditions or other concerns you have related to this application should be specifically addressed in your recommendation.

IDWR can finish reviewing an unprotested application as soon as the protest period has passed. Your prompt response to this request will ensure that your recommendation can be considered. If IDWR has not received your written recommendation within 21 days from the date of this letter, IDWR will presume that you do not oppose approval of the application and that you have no comments for IDWR to consider.

Sincerely,

*Denise Maline*

Denise Maline  
Administrative Assistant 1

Enclosure(s)

## Maline, Denise

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**From:** Maline, Denise  
**Sent:** Thursday, September 12, 2024 2:01 PM  
**To:** Idaho Mountain Express  
**Subject:** LEGAL NOTICE  
**Attachments:** Idaho Mtn Express cover letter.docx; Idaho Mtn Express ad.docx

Good afternoon,

Attached please find **(1)** legal notice being submitted for publication on September 18<sup>th</sup> & 25<sup>th</sup>, 2024. Please let me know if there are any questions or if you are not able to run the ad on the dates requested.

Thank you in advance,

Denise @ IDWR Twin Falls, Idaho



Denise Maline, Administrative Assistant I  
Idaho Dept. of Water Resources, Southern Region  
650 Addison Ave W Ste 500  
Twin Falls ID 83301-5858  
(208) 293-9908  
[denise.maline@idwr.idaho.gov](mailto:denise.maline@idwr.idaho.gov)



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

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**Governor Brad Little**

**Director Mathew Weaver**

September 12, 2024

**LEGAL NOTICE DEPARTMENT**  
IDAHO MOUNTAIN EXPRESS  
PO BOX 1013  
KETCHUM, ID 83340-0990

Re: Application for Permit No. 37-23594

Re: Transfer No. 89217

Water Right No(s). 37-21863, 37-21880, 37-21897, 37-21914, 37-21931, 37-21976

Dear Legal Notice Department:

Please publish the enclosed legal notice on the dates indicated (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before October 7, 2024. Your cooperation is appreciated.

Sincerely,

*Denise Maline*

Denise Maline  
Administrative Assistant

Enclosure(s)

The following application(s) have been filed to appropriate the public waters of the State of Idaho:  
**37-23594**

DILLON WITMER

PO BOX 5005

KETCHUM, ID 83340-5060

Point of Diversion SESE S23 T05N R17E BLAINE County Source GROUND WATER Tributary

Use: DOMESTIC 1/1 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 07-17-2024

Place Of Use: DOMESTIC

T05N R17E S23 SESE

Application proposes diversion of up to 0.04 cfs from a proposed well for domestic use. The water is for in-house (culinary) use only and the wastewater will be discharged into a private septic system. Irrigation will be provided by existing ground water right 37-7296A. The place of use and point of diversion are located approximately 4.4 miles north and 1.2 miles west of the intersection of Main Street and Sun Valley Road in Ketchum. This application proposes to appropriate trust water and will be evaluated in compliance with Section 42-203C, Idaho Code, and IDWR's Water Appropriation Rules, IDAPA 37.03.08.

#### **NOTICE OF PROPOSED CHANGE OF WATER RIGHT TRANSFER NO. 89217**

FLYING SQUIRREL PRODUCTIONS LLC, PO BOX 4938, KETCHUM, ID 83340-4940 has filed Application No. 89217 for changes to the following water rights within BLAINE County(s): Right No(s). 37-21863, 37-21880, 37-21897, 37-21914, 37-21931, 37-21976. The purpose of the transfer is to change a portion of the above rights as follows: Application for transfer proposes to change the place of use (POU) and point of diversion (POD) for a 9.0 acre portion of a ground water irrigation right, and change the POU of a 9.0 acre portion of five companion Big Wood River irrigation rights, all with a total flow rate of 0.321 cfs. The POU will move to adjacent property located approximately 2.3 miles south and 0.3 mile east of the intersection of Main Street and Gannett Road in Bellevue. The ground water POD will be moved to an existing well located within the proposed POU, while the surface water rights will retain their present POD.

Permits will be subject to all prior water rights. For additional information concerning the property locations, contact Southern Region office at (208) 736-3033; or for a full description of the rights &/or proposed transfer, please see <https://research.idwr.idaho.gov>. Protests may be submitted based on the criteria of Sec 42-222 and 42-203A, Idaho Code. Any protest against the approval of this application(s) must be filed with the Director, Dept. of Water Resources, Southern Region, 650 ADDISON AVE W, STE 500, TWIN FALLS, ID 83301-5858 together with a protest fee of \$25.00 for each application on or before **October 7, 2024**. The protestant must also send a copy of the protest to the applicant.

MATHEW WEAVER, Director

Published on September 18<sup>th</sup> & 25<sup>th</sup>, 2024



IDAHO DEPARTMENT OF  
**WATER RESOURCES**

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, ID 83301-5858

Phone: 208-736-3033 • Fax: 208-736-3037 • Email: southerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

August 22, 2024

DILLON WITMER  
PO BOX 5005  
KETCHUM ID 83340-5060

**RE: Application for Permit to Appropriate Trust Water – No. 37-23594**

Dear Applicant:

The Department of Water Resources (“Department”) has received your application for permit to appropriate water and has accepted it for filing. Your application has been assigned the identification number referenced in the subject line of this letter. Please refer to that number in all future correspondence regarding this application.

Your application proposes to appropriate Trust Water as described in this letter. The special nature of the trust affects how the Department will process your application as well as some aspects of the water right that may result. The purpose of this letter is to inform you of three items specific to applications proposing to appropriate Trust Water:

1. Your application will be subject to additional evaluation compared to applications that do not propose the use of Trust Water. This may require you to submit additional information and to demonstrate that your application meets the statutory evaluation criteria for appropriating Trust Water.
2. If a water right is issued to you, it could be subject to curtailment to satisfy senior minimum stream flow water rights on the Snake River at the Murphy Gage.
3. If a water right is issued to you, it will be subject to a periodic term review that may impact the future use of the right.

To understand better these three items and why they apply to your application, it helps to understand what Trust Water is and how it came about.

Trust Water arose from the 1984 Swan Falls Settlement between Idaho Power Company (“IPC”) and the State of Idaho (“State”).<sup>1</sup> Prior to the Swan Falls Settlement, the Idaho Supreme Court determined IPC held water rights for use at Swan Falls Dam that exceeded the entire flow of the Snake River at times. This limited future upstream development of water resources in the Snake River Basin. The Swan Falls Settlement resulted in changes to Idaho Law<sup>2</sup> and to IPC’s water rights. As a result of the Swan Falls Settlement and subsequent legislation and court decrees,

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<sup>1</sup> For more information, including a more complete description of the Swan Falls Settlement and resulting legislation, please see the Department’s web page: <https://idwr.idaho.gov/legal-actions/settlements/swan-falls/>.

<sup>2</sup> Although several sections of the Idaho Code were affected, the addition of Sections 42-203B and 42-203C, Idaho Code are the changes most relevant to this discussion.

IPC's hydropower water rights in excess of the minimum flows at Murphy Gage are held in trust by the State. This change allows future development using water that would have previously been delivered to satisfy IPC water rights at Swan Falls Dam and, therefore, would have been unavailable for upstream appropriation. The purpose of this trust is defined in Idaho Code § 42-203B as follows:

The purposes of the trust established by ... this section are to assure an adequate supply of water for all future beneficial uses and to clarify and protect the right of a user of water for power purposes ... to continue using the water pending approval of depletionary future beneficial uses.

Your application proposes a use of water that could deplete the rights placed in trust, so the State, through the Department must evaluate your proposal under the laws and rules that came after the Swan Falls Settlement.<sup>3</sup> In addition to the usual statutory process and evaluation criteria, the Department must also evaluate whether your application will deplete Trust Water and, if so, whether your depletion of Trust Water is in the public interest.

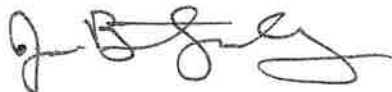
In addition, the availability of Trust Water and the public's interest in the use of Trust Water could change over time. The Department will periodically review rights to use Trust Water to determine if Trust Water remains available for use and if the continued use of Trust Water is in the public interest. The periodic review will occur for any right that issues from your application. A future review by the Department could terminate or limit your ability to use the right in the future.

An important aspect of the Swan Falls Settlement is that the State agreed to protect the minimum stream flows in the Snake River at the Murphy Gage. Should the flows at the Murphy Gage fall below these minimums, the water rights that use Trust Water could be curtailed to restore flow to meet those minimums.

The Department will hold your application for 14 days to allow you time to contact us if you have further questions on this topic or if you choose to withdraw your application. If the Department does not hear from you within 14 days, the Department will process your application and prepare it for publication. If you choose to withdraw your application before it is submitted for publication, you will receive a full refund of your filing fee. Refunds are not available if an application is withdrawn after advertising.

Please contact this office if you have questions regarding this matter.

Sincerely,



Jim Bitzenburg  
Water Rights Supervisor

Enclosure: Withdrawal of Application form

CC: Heather E. O'Leary- Lawson, Laski, Clark, PLLC via email

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<sup>3</sup> See Sections 42-203C and the Department's Water Appropriation Rules (IDAPA 37.03.08).

## Bitzenburg, James

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**From:** Heather O'Leary <heo@lawsonlaski.com>  
**Sent:** Tuesday, August 20, 2024 1:13 PM  
**To:** Bitzenburg, James  
**Cc:** dillonwitmer@hotmail.com  
**Subject:** RE: Application for Permit 37-23594, Witmer

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Thank you! Your email below makes sense-please proceed as you suggest.

Should we go ahead and file the transfer application? Please let me know.

Thanks,  
Heather

**Heather E. O'Leary**  
**Lawson Laski Clark, PLLC**  
**675 Sun Valley Road, Suite A**  
**PO Box 3310**  
**Ketchum, ID 83340**  
**208-725-0055**  
**208-725-0076 fax**

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**From:** Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>  
**Sent:** Friday, August 16, 2024 10:13 AM  
**To:** Heather O'Leary <heo@lawsonlaski.com>  
**Cc:** dillonwitmer@hotmail.com  
**Subject:** Application for Permit 37-23594, Witmer

Heather-

I'm doing the data entry on the Witmer App for Permit north of Ketchum and the map generated with the application does have a couple of issues (as you mentioned, the POU overlaps the adjacent parcel; also, the

POD is on the neighboring parcel, so I made a new map (attached) based on the Blaine County parcel map (a copy also attached - our parcel layer hasn't been updated for a while, so the parcel split doesn't show up in our system). If its okay with you and the applicant, I'll supersede the original map with the one I created. I stuck the POD out near the road; the exact location doesn't matter since everything is in the same QQ and it will be exactly located after proof is filed and the field exam is completed.

Everything else looks pretty straightforward, but I'll let you know if something shows up. One item to note is that the area north of Ketchum has undergone a change in the PLSS layout and the present PLSS description of the original Witmer parcel differs from the decreed location. If you look at the other rights on the property, you can see that they were decreed in T05N, R17E, Section 26, but this new application is located in Section 23, reflecting the slight shift in the PLSS. This can be corrected with a water right transfer (the legislature reduced the fee for this type of transfer to \$50.00/right). For reference, I've processed a couple that were filed in the past few years by Jim Speck; they are transfers #83984 and #84141. This doesn't affect Application for Permit 37-23594 that we're working on- I just wanted to give you a heads-up.

Jim

**Jim Bitzenburg**  
**Water Rights Supervisor**  
**Idaho Department of Water Resources**  
**Southern Regional Office**  
**Phone (208)-293-9909**  
[james.bitzenburg@idwr.idaho.gov](mailto:james.bitzenburg@idwr.idaho.gov)

## Bitzenburg, James

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**From:** Heather O'Leary <heo@lawsonlaski.com>  
**Sent:** Tuesday, August 13, 2024 2:00 PM  
**To:** Bitzenburg, James  
**Subject:** RE: On-line Application for Permit 37-23594

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We applied to split an irrigation water right (no. 37-7296A) which was appurtenant to the lot as a whole before it was subdivided. Once both water rights (domestic and irrigation) are in Dillon Witmer's name, we intend to apply for a permit to drill a domestic/irrigation (combined) well on the lot.

You are correct that there will be a privately owned underground septic system installed on the lot.

One thing I noticed on the application that you forwarded was that the place of use doesn't follow the exact lot lines. It excludes a small portion of the northern part of the lot and includes a small portion of the adjoining neighbor's property to the south. I assume it's understood that the map is not 100% accurate but just wanted to make sure that this won't be an issue.

Thanks!

**Heather E. O'Leary**  
**Lawson Laski Clark, PLLC**  
**675 Sun Valley Road, Suite A**  
**PO Box 3310**  
**Ketchum, ID 83340**  
**208-725-0055**  
**208-725-0076 fax**

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**From:** Bitzenburg, James <James.Bitzenburg@idwr.idaho.gov>  
**Sent:** Tuesday, August 13, 2024 1:20 PM  
**To:** Heather O'Leary <heo@lawsonlaski.com>  
**Subject:** RE: On-line Application for Permit 37-23594

Yes, I have to get it data entered, link the shapes, and write up a legal notice. I'll have the initial portion of the process done this week, then it'll get submitted for advertising.

In relation to the moratorium- it's strictly in-house use, and no irrigation, correct? And the uses in the home will discharge into a privately owned underground septic system?

**From:** Heather O'Leary <[heo@lawsonlaski.com](mailto:heo@lawsonlaski.com)>  
**Sent:** Tuesday, August 13, 2024 1:09 PM  
**To:** Bitzenburg, James <[James.Bitzenburg@idwr.idaho.gov](mailto:James.Bitzenburg@idwr.idaho.gov)>  
**Subject:** RE: On-line Application for Permit 37-23594

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Thanks. I'm assuming it's still pending, is that correct? Do you have any indication on timing for the application to be completed?

Thanks

**Heather E. O'Leary**  
**Lawson Laski Clark, PLLC**  
**675 Sun Valley Road, Suite A**  
**PO Box 3310**  
**Ketchum, ID 83340**  
**208-725-0055**  
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**From:** Bitzenburg, James <[James.Bitzenburg@idwr.idaho.gov](mailto:James.Bitzenburg@idwr.idaho.gov)>  
**Sent:** Tuesday, August 13, 2024 12:56 PM  
**To:** Heather O'Leary <[heo@lawsonlaski.com](mailto:heo@lawsonlaski.com)>  
**Subject:** RE: On-line Application for Permit 37-23594

Here's what it looks like coming out the other end...

**From:** Heather O'Leary <[heo@lawsonlaski.com](mailto:heo@lawsonlaski.com)>  
**Sent:** Tuesday, August 13, 2024 11:49 AM  
**To:** Bitzenburg, James <[James.Bitzenburg@idwr.idaho.gov](mailto:James.Bitzenburg@idwr.idaho.gov)>  
**Subject:** RE: On-line Application for Permit 37-23594

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Great, thanks for the update! Yes, I am representing the applicant so if you have any questions and/or need any additional information please let me know.

Thanks for your help on this!

**Heather E. O'Leary**  
**Lawson Laski Clark, PLLC**  
**675 Sun Valley Road, Suite A**  
**PO Box 3310**  
**Ketchum, ID 83340**  
**208-725-0055**  
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**From:** Bitzenburg, James <[James.Bitzenburg@idwr.idaho.gov](mailto:James.Bitzenburg@idwr.idaho.gov)>  
**Sent:** Tuesday, August 13, 2024 11:46 AM  
**To:** Heather O'Leary <[heo@lawsonlaski.com](mailto:heo@lawsonlaski.com)>  
**Subject:** On-line Application for Permit 37-23594

Heather-

I finally tracked down the Application for Permit we discussed yesterday. The on-line applications aren't immediately accessible to our office- the State office retrieves them from some location they are sent to after the applicant completes the filing process, and then emails them down to us. The person in the State office that used to complete that process has taken a different position within the Department, and no one was selected to replace him yet.

I now have the application and will complete the processing ASAP. Are you representing the applicant? Can you answer questions about the application, or do I need to contact the applicant?

Thanks for your patience,

Jim

**Jim Bitzenburg**



**Water Rights Supervisor**  
**Idaho Department of Water Resources**  
**Southern Regional Office**  
**Phone (208)-293-9909**  
**[james.bitzenburg@idwr.idaho.gov](mailto:james.bitzenburg@idwr.idaho.gov)**