

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 57-12099

Priority: March 13, 2024

Maximum Diversion Rate: 0.02 CFS

This is to certify that

DAN BEYER 15141 BATES CREEK RD OREANA ID 83650-5103 OR
CHARLES BEYER 15141 BATES CREEK RD OREANA ID 83650-5103

has applied for a permit to appropriate water from:

Source : BATES CREEK

Tributary: PICKETT CREEK

and a permit is APPROVED for development of water as follows:

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>
DOMESTIC	01/01 to 12/31	0.02 CFS

Location of Point(s) of Diversion

BATES CREEK L2 (NW¼ NE¼), Sec. 3, Twp 05S, Rge 02W, B.M. OWYHEE County

Place of Use: DOMESTIC

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	01W	28							X										

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **December 01, 2029**.
2. Subject to all prior water rights.
3. The domestic use authorized under this right shall not exceed 5,000 gallons per year.
4. This right does not authorize the construction of any diversion facilities, nor any modifications to the road, stream, or vegetation at the point of diversion.
5. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.
6. This right is for the use of trust water, and it is subject to review 5 years after its initial approval (date of permit approval) to re-evaluate the availability of trust water for the authorized use and to re-evaluate the public interest criteria for reallocating trust water.
7. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 57B.
8. This right does not grant any right-of-way or easement across the land of another.
9. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 57-12099

This permit is issued pursuant to the provisions of Idaho Code § 42-204.

Signed this 22nd day of November, 2024.



SCOTT STORMS
Water Rights Supervisor

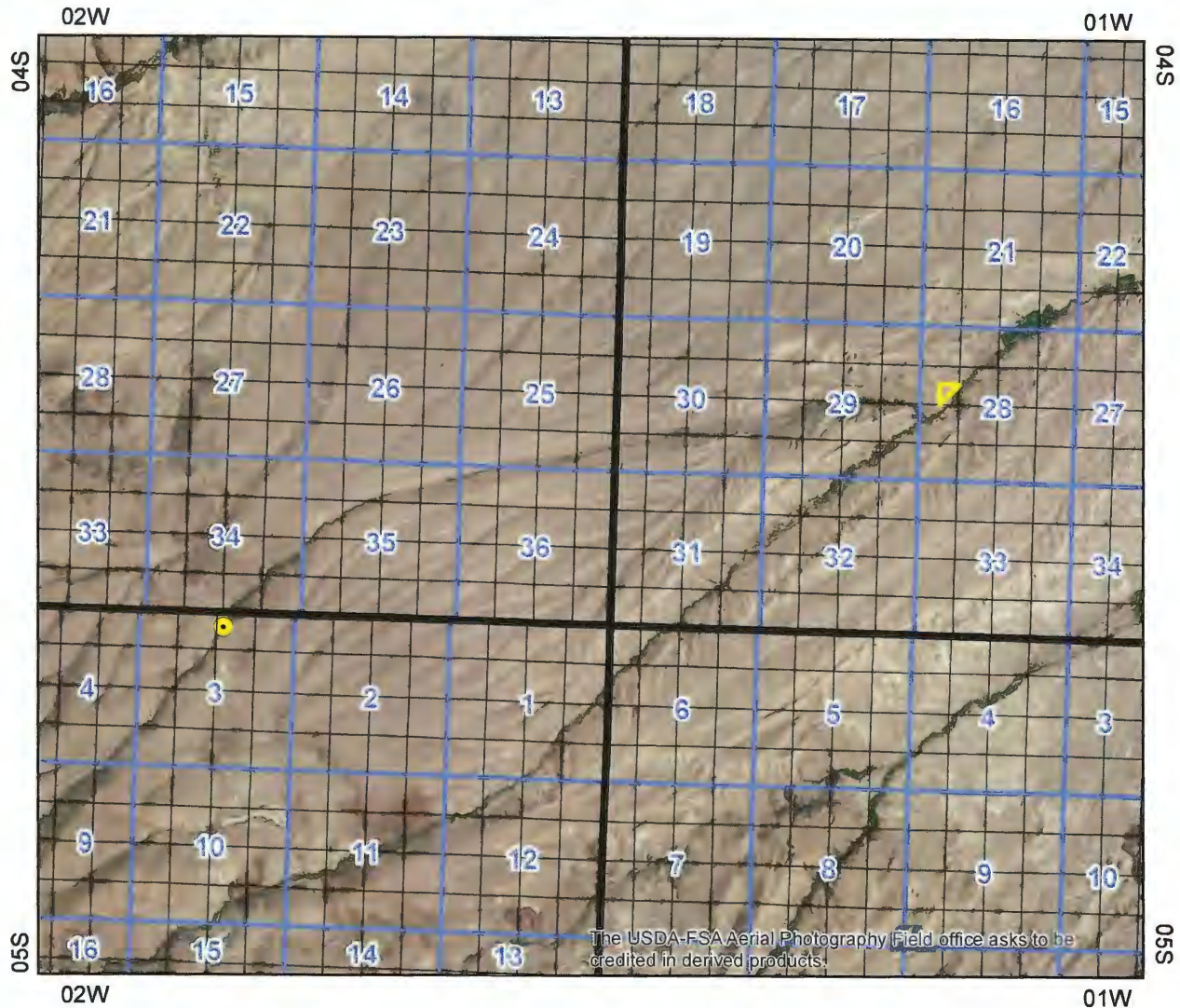








State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

57-12099

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



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





IDAHO DEPARTMENT OF
WATER RESOURCES

Western Region • 2735 W Airport Way • Boise, ID 83705-5082

Phone: 208-334-2190 • Fax: 208-334-2348 • Email: westerninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

November 25, 2024

DAN BEYER OR CHARLES BEYER
15141 BATES CREEK RD
OREANA ID 83650-5103

RE: Permit No. 57-12099

Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Please be advised that Idaho Code § 42-248, requires you or the owner of this water permit to maintain current ownership and address records on file with the

Department. Forms to file an assignment of permit and/or a change in the address of the permit owner are available from any Department office or at the Department's website at www.idwr.idaho.gov.

If you have any questions concerning the enclosed information, please contact me at (208) 605-4624.

Sincerely,

Marina Bozdog

Marina Bozdog

for Scott Storms
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on November 25, 2024, I served a true and correct copy of Permit to Appropriate Water No. 57-12099 by U.S. Mail, postage prepaid, to the following:

DAN BEYER OR CHARLES BEYER (Current Owners)
15141 BATES CREEK RD
OREANA ID 83650-5103

WATER DISTRICT #57B
ROHL W HIPWELL (Watermaster)
17965 OREANA LOOP RD
OREANA ID 83650-5055



Marina Bozdog
Technical Records Specialist 1

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

AUG 20 2024

WATER RESOURCES¹
WESTERN REGION

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Owyhee Field Office
3948 Development Avenue
Boise, Idaho 83705CERTIFIED MAIL: 7021 1970 0001 5607 3735
RETURN RECEIPT REQUESTEDCharles Beyer
15141 Bates Creek Road
Oreana, ID 83650

Dear Mr. Beyer,

This letter is in response to your questions about your proposed use of public lands to access Bates Creek, as contained in your State of Idaho Department of Water Resources Application Permit No. 57-12099. You proposed using the existing road crossing through Bates Creek, located at Boise Meridian T. 5 S., R. 2 W., Section 3, Lot 2 to transport water from Bates Creek in a truck-mounted 210-gallon water tank to your house located at 15141 Bates Creek Road, to use up to 5000 gallons of water annually for domestic and fire suppression purposes. This water would be pumped into your truck-mounted tank using a five-horsepower water pump. As long as you stay on the existing road, you do not exceed 5000 gallons annually, and your use causes no or negligible impacts to public lands, BLM considers your use to be "casual use" as described in 43 CFR 2801.5(b), and accordingly, your use does not require you to obtain a right of way.

If you need to modify your use of public land from what is described above, please submit an application to the BLM for your proposal. Any proposed changes may require you to obtain a right of way for your use of the road.

Examples of impacts to public lands exceeding "casual use" include impacts like creating ruts more than two inches deep in the roadway by driving on it when it is wet or driving your vehicle off of existing roads and trampling vegetation and soil crusts. This letter does not authorize any road, stream, or vegetation modification, or any construction activities of any kind. If your use of public lands exceeds casual use and creates more than negligible impacts to public lands, then you may be subject to civil or criminal penalties.

Sincerely,

AMMON
WILHELMDigitally signed by
AMMON WILHELM
Date: 2024.08.20
08:34:41 -06'00'Ammon Wilhelm
Field Manager
Owyhee Field Office



July 29, 2024

CHARLES BEYER
DAN BEYER
15141 BATES CREEK RD.
OREANA ID 83650

Re: Application for permit 57-12099

Dear Applicant:

Your application for permit was received on May 15, 2024. Upon review it was established that the point of diversion (POD) located at T04S R02W, Section 34, NESE is location on federal land managed by the Bureau of Land Management (BLM).

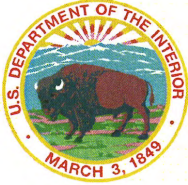
Under state law a water right cannot be established in trespass. Please work with the BLM to establish authorization to access the land. Once authorization has been granted, please submit proof of authorization to the Idaho Dept. of Water Resources.

Please submit evidence within thirty (30) days. The application will be voided without a timely written reply within the next thirty (30) days.

Sincerely,



Marcelina M. Williams
Water Resource Agent, Sr.
P: (208) 605-4632
Western Region
Idaho Dept. of Water
Resources



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
Idaho State Office
1387 South Vinnell Way
Boise, Idaho 83709-1657



In Reply Refer To:
7250 (933b)

July 11, 2024

Lynne Evans
Idaho Department of Water Resources
Western Regional Office
2735 W. Airport Way
Boise, ID 83705-5082

RECEIVED

JUL 11 2024
via e-file
WATER RESOURCES
WESTERN REGION

RECEIVED

JUL 15 2024
via mail
WATER RESOURCES
WESTERN REGION

RE: IDWR Letter Seeking Comment dated May 31, 2024
Application for Permit 57-12099

To Lynne Evans or to Whom It May Concern,

The Bureau of Land Management (BLM) makes the following comments to Application for Permit 57-12099 filed May 15, 2024 by Charles Beyer and Dan Beyer. BLM is an interested party to Application for Permit 57-12099. The application seeks a Point of Diversion(s) ("POD") that entirely describes federal lands managed by BLM (T05S, R02W, S03, Lot 2 (NWNE) and/ or T04S, R02W, S34, NESE). The applicant is also seeking a route across federal land managed by BLM to access the POD(s).

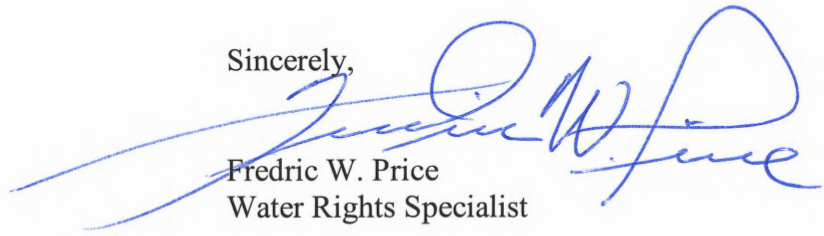
BLM has identified the following concerns with Application for Permit 57-12099:

1. The application is not typical for a domestic use and leaves some ambiguity as to whether the applicant is seeking a temporary disturbance or if the applicant is seeking a more permanent disturbance of federal lands. The applicant appears to be seeking one POD on federal land, but could be referencing two PODs on federal land depending on interpretation of the application. BLM seeks more info from the applicant to ensure the type of access to Federal Lands and the number of PODs is understood.
2. The applicant requires authorization from BLM to access any PODs located on federal lands and to transport water under 57-12099 across federal lands. Under state law a water right cannot be established in trespass. An application is made in good faith when an applicant has "legal access to the property necessary to construct and operate the proposed project." IDAPA Rule 37.03.08.45.01.c.i. The applicant can contact a Realty Specialist with the BLM Owyhee Field Office (Ryley Siegner, Rsiegner@blm.gov) to discuss the application process and the costs involved for a Right of Way. Prior to approval of this application, the applicant shall have filed an acceptable Right of Way application with BLM.

3. BLM may have some resource concerns associated with this application as BLM holds several water rights on Bates Creek (57-11255, 57-11334, 57-11347, and 57-11348). The applicant is seeking PODs a large distance away from the Place of Use (POU) located on private lands and BLM would like more time to evaluate water availability in Bates Creek prior to any approval. The applicant is seeking to use a surface water source, which may not be suitable for domestic/ culinary purposes without treatment.
4. Any approved Permit shall include the following conditions on any issued permit:
 - (a) "This right does not grant any right-of-way or easement across the land of another.";
 - and
 - (b) "Prior to diversion and use of water on federal land under this approval, the right holder shall obtain authorization from United States agencies necessary to access the point of diversion or place of use or to convey water across federal land."; and
 - (c) "Use of surface water for domestic purposes is not recommended without appropriate treatment."

If there are questions regarding any statements above, please do not hesitate to contact me at 373-3831 or at the address provided above.

Sincerely,



Fredric W. Price
Water Rights Specialist

cc: Ammon Wilhelm, BLM Owyhee Field Office Manager



Evans, Lynne

From: McCrea, Sandra L <smccrea@blm.gov>
Sent: Thursday, July 11, 2024 3:05 PM
To: Evans, Lynne; fwprice@blm.gov
Cc: Madenford, Gary A
Subject: BLM Comment Letter: App. for Permit 57-12099, Charles Beyer and Dan Beyer
Attachments: BLM-Comment-Letter_App-for-Permit_57-12099_Beyer-2024-07-11.pdf; 57-12099_IDWR-Letter-asking-for-comment_2024-05-31.pdf

CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.

RE: App. for Permit 57-12099, Charles Beyer and Dan Beyer BLM Comment Letter

Hi Lynne Evans,

I have attached BLM's Comment Letter to Application for Permit 57-12099 filed by Charles Beyer and Dan Beyer. The applicants have **not** approached BLM concerning legal access to the proposed Points of Diversion that are located entirely on BLM land (T05S, R02W, S03, Lot 2 (NWNE) and/ or T04S, R02W, S34, NESE) and the route also crosses federal land managed by BLM.

Please see BLM's attached comment letter.

Thank you,
Sandra McCrea

Sandra McCrea
Water Rights Specialist
1387 S. Vinnell St.
Boise, ID. 83709
(208) 373-3816