Form 42-217 Rev. 6/22

RECEIVED
AUG 28 2024
DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEMENT OF COMPLETION

FOR SUBMITTING PROOF OF BENEFICIAL USE

FOR OFFICE USE ONLY	
Amt. of Fee $	125.00
Receipt No.	C118798
Receipted By	KM
Date Receipted	8.28.24

The Idaho Department of Water Resources (Department) considers this form a statement that the permit holder(s) applied water to beneficial use and completed development of a water right to the extent described below. **This form must be accompanied by an examination fee, when necessary, or by a completed Beneficial Use Field Report prepared by a certified water right examiner (CWRE).** Please refer to the instructions and fee schedule for this form. If ownership of the permit has changed, complete a Notice of Change in Water Right Ownership form. If you wish to relinquish your permit because you have not established the authorized water use and are not applying for an extension, please notify the Department in writing.

1. Permit No. 37-23430 Name of Permit Holder(s) Stephen Barnard
   Telephone No. 650-644-9516 Email rw56@earthlink.net
   Mailing Address 18450 Highway 20 City Bellevue State ID Zip 83313
2. Source of Water Loving Creek If Ground Water (well), Date Drilled mo. _____ / yr. _____
   Drilling Permit/Tag No. _____ Drilling Company's Name _____
3. Extent of use(s) completed **as authorized by the water right permit**:
   Domestic (No. households) _____ Irrigation (No. acres) _____ Stockwater (No. and stock type) _____
   Other non-consumptive (wildlife) - see attachment
4. Total diversion rate or volume (storage only) for which proof is submitted 2 cfs OR _____ af
   If the total developed water use is 5 acres of irrigation or less, is stockwater storage of 14.6 acre-feet or less, or has a diversion rate of less than 0.24 cfs, attach a map of the place of use and point of diversion and photographs showing beneficial use.
5. Describe the diversion and delivery system from the water source to the use (pump, lift, irrigation method, etc.)
   See attachment
6. Permit condition compliance. Refer to the permit approval conditions and check all the items required, then check "Yes" or "No" to indicate whether the required items were established, submitted, and/or installed:

Required?	Yes	No	(If "Yes", attach required data, evidence of compliance, or evidence of installation)
☐	☐	☐	Ground water level data, pumping information, or other diversion data
☐	☐	☑	Mitigation plan
☐	☐	☑	Lockable controlling works
☐	☐	☑	Measuring device
☐	☐	☐	Fish screen
☐	☐	☐	Other requirements of the water right permit _____
	☐	☐	Reasonably Anticipated Future Needs ("RAFN") Municipal use

   If RAFN Municipal use, additional increment of beneficial use developed? ☐ Yes (attach CWRE report) ☐ No
7. Fee Enclosed $ 125 or ☐ CWRE field report attached or ☐ No fee required
   See fee schedule on page 3 of the instructions. Proof statements filed without an appropriate fee are incomplete.
8. Person to contact to accompany a Department representative during the field examination of the water system:
   Name: Stephen Barnard Telephone No. 650-644-9516 Email rw56@earthlink.net
   Mailing Address 18450 Highway 20 City Bellevue State ID Zip 83313

The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted and applied to beneficial use. I understand that any undeveloped portion of the permit is relinquished to the State of Idaho.

Stephen Barnard (owner) 10/26/2024

SIGNATURE OF PERMIT HOLDER* PRINTED NAME AND TITLE DATE

*Attach power of attorney if completing on behalf of permit holder.

[3]

The purpose of water right 37-23430 is to provide flow to a well-established pond/creek system when I am not irrigating, primarily but not exclusively during the winter. It is non-consumptive, 2 cfs of surface water.

Previously, the only permissible source was water right 37-8571 (5 cfs, non-consumptive, ground water). I argued in the application that this is excessive, inefficient, and unnecessary. That has proven to be the case.

[5]

Water is diverted from Loving Creek through a previously existing lockable head gate. From the diversion, water flows in an underground culvert to the pond/creek system and returns to Loving Creek though an underground culvert. (See attached diagram.) Water right 37-8569 (wildlife storage, 8.2 acre feet) mitigates any evaporation losses in the ponds.

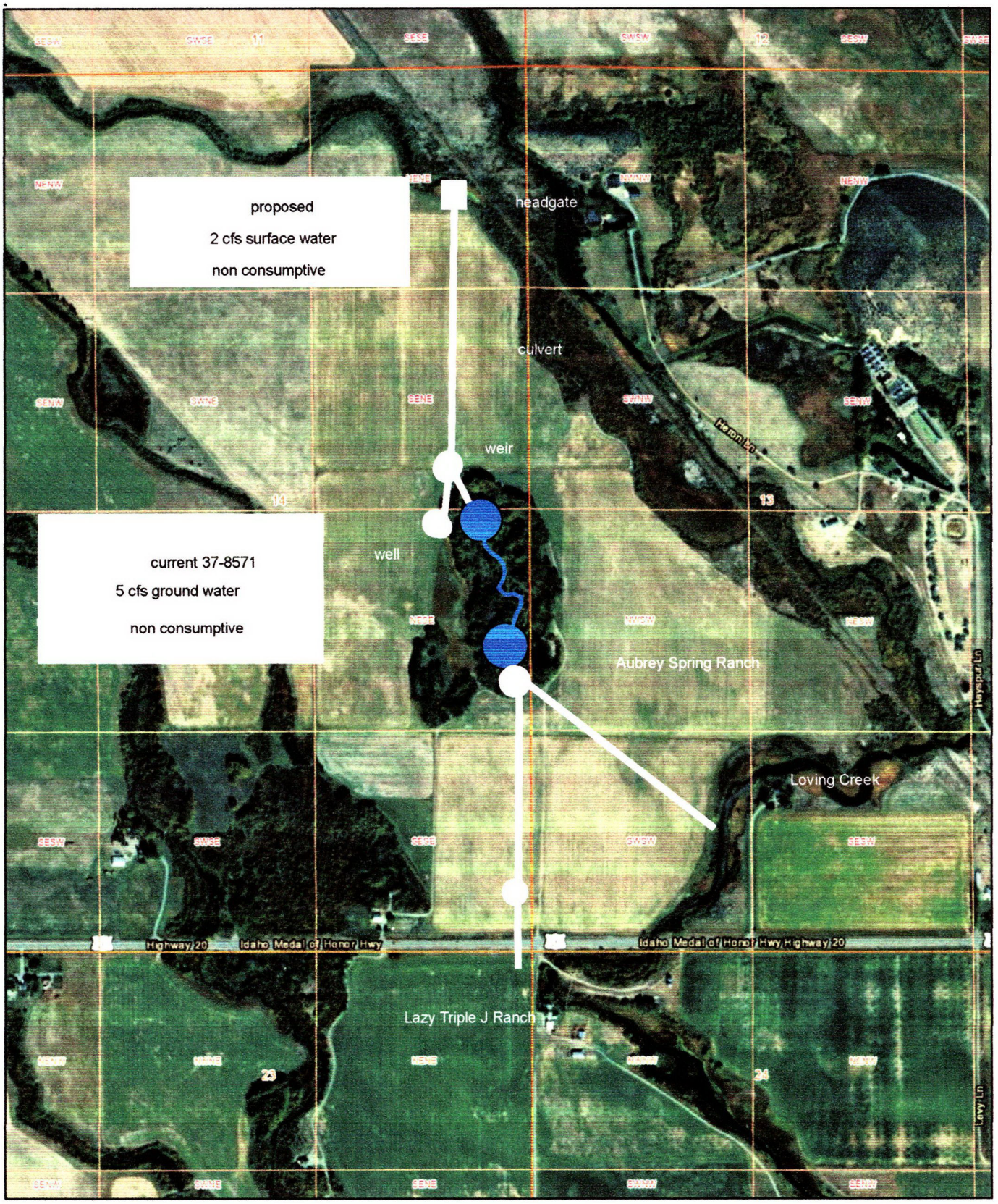
Water right 37-8571 was offered as mitigation by non-use. In the fall of 2023 the watermaster recorded the time clock on the groundwater pump associated with 37-8571 at 8818.4 hours. On July 18, 2024 she recorded the time as unchanged at 8818.4 hours. This is proof that the mitigation plan was honored. I'd like to mention that as long as 37-23430 is approved I have no reason, and in fact have a strong disincentive, to violate the terms of the mitigation plan by unnecessarily pumping groundwater at great cost.

Not using 37-8571 saves over 3600 acre feet of ground-water depletion year-to-year. Meanwhile, the pond/creek system has

been adequately supplied and is healthy.

Measurement: The head gate has a 1 square foot rectangular submerged orifice. It is sometimes used to divert 3.8 cfs for irrigation (37-252 and 37-712), and at other times to divert 2 cfs for 37-23430. I installed staff gages to enable accurate measurement. (See attached photo).

Application for Water Right [redacted]



12/3/2022, 9:53:21 AM

Lines
- Override 1
- Override 2

Areas
- Override 1
- Override 2
- Counties
- Quarter Quarters
- PLS Sections
- Townships
- Idaho Outline
- Idaho Mask

1:9,028

0 0.07 0.15 0.3 mi

0 0.1 0.2 0.4 km

Esri, HERE, GeoTechnologies, Inc., Created by NRCS from 1:24,000 scale USGS topographic maps., Maxar

Idaho Department of Water Resources

Maxar | Created by NRCS from 1:24,000 scale USGS topographic maps. | Idaho Department of Water Resources (IDWR)



State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 37-23430

Priority: March 06, 2023 **Maximum Diversion Rate:** 2.00 CFS

This is to certify that

STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE ID 83313-5116

has applied for a permit to appropriate water from:

Source : LOVING CREEK **Tributary:** SILVER CREEK

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

Beneficial Use	Period of Use	Rate of Diversion
WILDLIFE	01/01 to 12/31	2.00 CFS

Location of Point(s) of Diversion
LOVING CREEK NW¼ NE¼ NE¼, Sec. 14, Twp 01S, Rge 19E, B.M. BLAINE County

Place of Use: WILDLIFE

Twp	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	19E	13										X							
01S	19E	14				X									X				

Conditions of Approval

1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2024.**
2. Subject to all prior water rights.
3. Rights 37-252, 37-712, and 37-23430 when combined shall not exceed a total diversion rate of 3.80 cfs.
4. This right provides flow through water for the ponds associated with storage right 37-8569.
5. Use of water under this right shall be non-consumptive.
6. For mitigation, the right holder shall cease diverting and using water as authorized by the following water right for the purpose and amounts specified below. Moreover, the official record for the following water right will be changed to show that diversion and use of water is not authorized because the right, is being dedicated to mitigation by non-use. The mitigating right may also include a condition stating that the mitigation by non-use is for the benefit of this right.

Right No.	Use Changed to Mitigation by Non-Use	Mitigation Rate (cfs)	Mitigation Volume (AF)	Mitigation Acres
37-8571	Wildlife	5.00	1,983.5	N/A

If the specified mitigation right, or portion thereof, is sold, transferred, leased, used on any place of use, or is not deliverable due to a shortage of water or a priority call, then the amount of water

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State of Idaho
Department of Water Resources

Permit to Appropriate Water

No. 37-23430

authorized for diversion under this right approval shall be reduced by the same proportion as the reduction to the mitigation rights.
In order to reflect the mitigation by non-use amounts identified in this condition, the following condition will be changed on rights 37-8571, 37-23424, and 37-22777 to reflect the mitigation by non-use identified above as follows: Rights 37-23424, 37-22777, 37-2553A, and 37-8571 when combined shall not exceed a total diversion rate of 5.18 cfs.

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. 37.
8. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
9. 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.
10. Administration of this right to satisfy the minimum stream flow water rights in the Snake River at Murphy Gage shall not be required because use of water pursuant to this right is either non-consumptive or the right holder is required to provide ongoing mitigation to offset the depletion of water resulting from the use of this right.
11. Noncompliance with any condition of this right, including the requirement for mitigation, is cause for the director to issue a notice of violation, cancel or revoke the right, or, if the right is included in a water district, request that the watermaster curtail diversion and use of water.
12. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant and the right holder under a separate agreement to which the Department is not a party. Because the Department is not a party, the Department is not responsible for enforcement of any aspect of the agreement not specifically addressed in other conditions herein. Enforcement of those portions of the agreement not specifically addressed in other conditions shall be the responsibility of the protestant and the water right holder.

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

Signed this 18th day of September, 2023.

COREY SKINNER
Southern Regional Manager

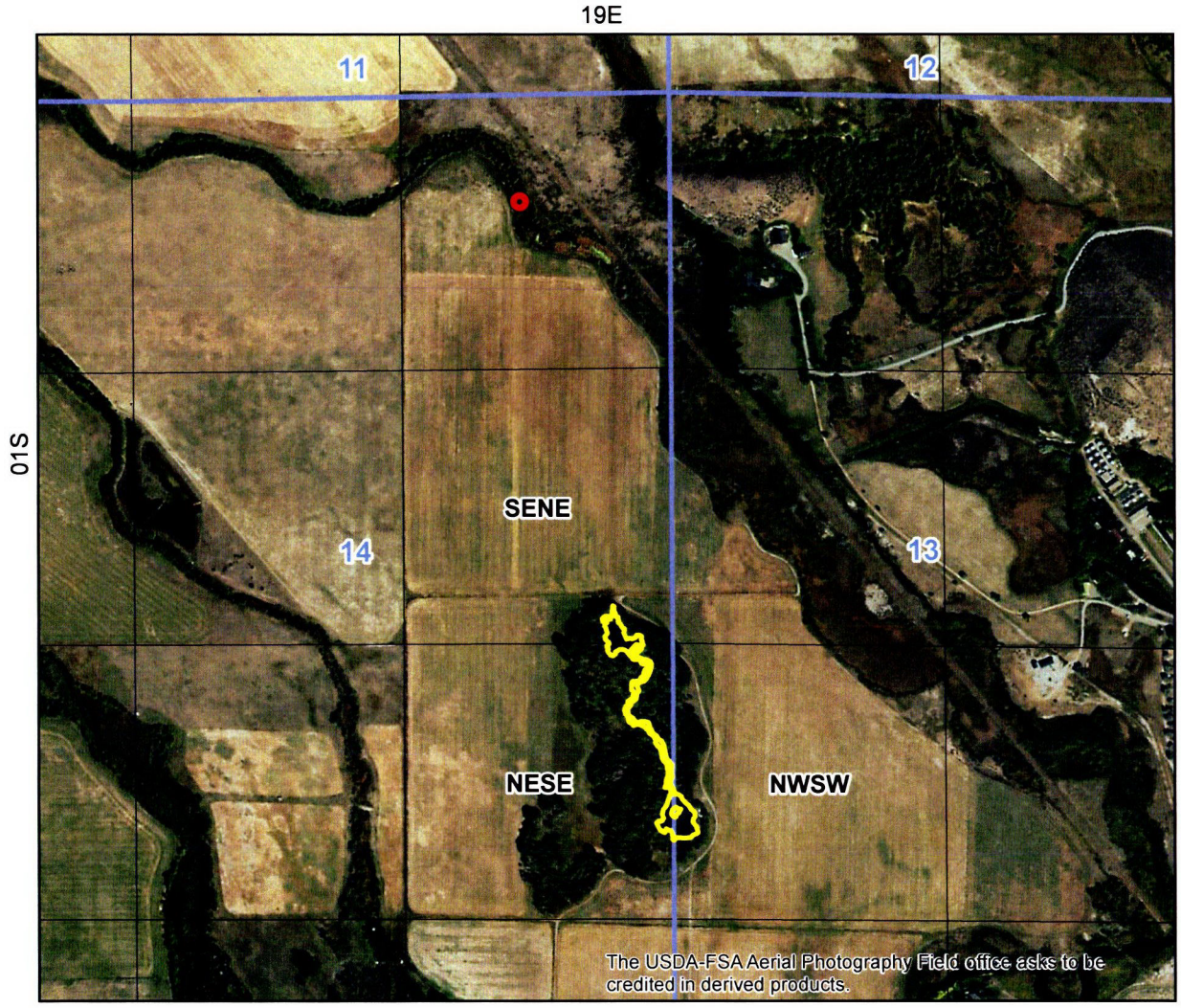
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SEP 19 2023

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

37-23430

This map depicts the WILDLIFE 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.



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SEP 19 2023

37-23430

FORM 202 Rev. 09/16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. RECEIVED
MAR 06 2023
DEPT OF WATER RESOURCES
SOUTHERN REGION

1. Name of applicant(s) Stephen T. Barnard Phone 650 644 9516
   Name connector (check one): ■ and ■ or ■ and/or
   Mailing address 18450 Highway 20 City Bellevue
   State ID ZIP 83313 Email rw56@earthlink.net
2. Name of representative, if any _____ Phone _____
   Mailing address _____ City _____
   State _____ ZIP _____ Email _____
   a. ☐ Send all correspondence for this application to the representative and not to the applicant OR
      ☐ Send original correspondence to the applicant and copies to the representative.
   b. ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant OR
      ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation.
3. Source of water supply Loving Creek which is a tributary of Silver Creek
4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
01S	19E	14		NW	NE	NE	Blaine	Loving Creek	existing headgate

5. Water will be used for the following purposes:
   Amount 2.0 cfs (cfs or acre-feet per year) for wildlife purposes from 01/01 to 12/31 (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per year) for _____ purposes from _____ to _____ (both dates inclusive)
6. Total quantity to be appropriated is (a) 2.0 cubic feet per second (cfs) and/or (b) _____ acre-feet per year (af).
7. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source. existing headgate for rights 37-252 and 37-712
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 12. For dams 10 feet or more in height AND having a storage capacity of 50 acre-feet or more, submit a separate . Application required? ☐ Yes ☐ No
   c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
   d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No
   e. If well is already drilled, when? _____; drilling firm _____; well was drilled for (well owner) _____; Drilling Permit No. _____.

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For Department Use

Received by SG Date 3-6-2023 Time _____ Preliminary check by _____
Fee $ 290- Receipted by SG Receipt No. 5039689 Date 3.6.2023

8. Description of proposed uses (if irrigation only, go to item 9):
   a. Hydropower; show total feet of head and proposed capacity in kW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; must complete and attach the
   d. Domestic; show number of households _____
   e. Other; describe fully. wildlife _____

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	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01S	19E	13										X							
01S	19E	14				X									X				

Total number of acres to be irrigated: _____

10. 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? 37-8569 covers storage and evaporation. 37-8571 allows for groundwater use in the ponds. Irrigation rights 37-2324, 37-2553A, 37-252, 37-712 run through ponds during irrigation.

11. a. Who owns the property at the point of diversion? applicant
    b. Who owns the land to be irrigated or place of use? applicant
    c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

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

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

14. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map or maps clearly identifying the proposed point of diversion, place of use, section #, township & range. The map scale shall not be less than two (2) inches equal to one (1) mile.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Stephen T. Barnard
Print Name (and title, if applicable)

Signature of Applicant

Print Name (and title, if applicable)

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APR 03 2023

Addendum to Application for Permit

I am applying for a non-consumptive surface water right, to be mitigated by nonuse of the ground water right 37-8571. The proposed change would eliminate an unnecessary 5 cfs drawdown of the aquifer. It would have no impact on downstream irrigators because it would be used only during non-irrigation periods.

Ground water right 37-8571 is non-consumptive, designated for wildlife. It was established in 1992 by William McMahan. In an addendum to his application for permit, Mr. McMahan described the purpose and use of the water right. In summary, it was for wildlife habitat and would be used when irrigation rights are not being used. The same considerations apply to the proposed permit. I have included a letter from Interfluve, the original developer of the ponds, stating that a minimum of 2 cfs of continuous flow is necessary to maintain the pond and creek system.

Two irrigation water rights are associated with the surface-water source, 37-252 and 37-712, totaling 3.8 cfs. This filing when combined with 37-252 and 37-712 shall not exceed 3.8 cfs.

Two irrigation water rights are associated with the ground-water source, 37-2553A and 37-22777.

In a typical year I use surface water for irrigation until and unless it is curtailed. Then I switch to ground water if necessary. Both sources supply the ponds and the associated wildlife habitat during irrigation season.

After I complete irrigation my only source to supply the wildlife habitat is to pump 5 cfs of ground water under water right 37-8571 until irrigation resumes the next spring. The proposed change would eliminate this need, which I consider unnecessary and wasteful.

This application recognizes that the Idaho Department of Fish and Game has a senior water right at the Hayspur Hatchery, between the point of diversion and the point of return to Loving Creek. I emphasize that the proposed permit will only be used when irrigation is finished and there should be ample supply of water. It is my hope that Fish and Game will recognize the beneficial value of decreasing aquifer drawdown, eliminating energy waste, and maintaining healthy wildlife habitat.

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INTER•FLUVE, INC.
FISHERIES, HYDROLOGY AND RESOURCE ENHANCEMENT

211 NORTH GRAND • BOZEMAN, MT 59715
(406) 586-6925
(406) 586-8445 FAX

March 20, 1990

Mr. Bill McMahan
P.O. Box 3125
Ketchum, ID 83340

Dear Bill,

Recently you asked me to address the issue of minimum flow required for the pond and spring creek system we constructed on your property near Gannett. You mentioned this information might be of assistance in your application for water rights.

There is a certain amount of water that arises as groundwater on the property. However, we designed the system figuring that the majority of water for the ponds and stream was to come from one of three sources: 1) the diversion from Loving Creek; 2) pumped from a well; and 3) recirculated/pumped from the lower to the upper pond.

A continuous flow of water is necessary to maintain the pond and creek system. The ponds should have a continuous supply of water so that nutrients do not become too concentrated; nutrients should be slowly drained from the pond with the surface outflow of water. The same is true in natural ponds; without a frequent outflow ponds eutrophy more rapidly. Continuous flow in the stream is necessary to maintain productivity and to provide habitat for trout. Water depth, velocity, temperature and the amount of dissolved oxygen available to fish all depend on the amount of water flowing in the stream. Furthermore, gravels and emergent vegetation must be kept wetted; these provide important invertebrate habitat (insects are the primary food base for trout species).

While our designs for the spring creek were based on commonly accepted open-channel flow formulas, our designs also depended on our experience constructing similar streams. Because emergent vegetation (which varies throughout the year) will play a large role in dictating channel hydraulics in this stream, it is difficult to predict water depths and velocities with precision. Similarly, it is difficult to estimate a suitable "minimum flow". None the less, a flow between 2 and 3 cubic feet per second will likely be suitable to sustain the fishery resource in the ponds and spring creek.

Clearly, one should recognize the difference between a maintenance flow that will simply sustain the fishery and an optimal flow that will promote a healthy, reproducing fishery.

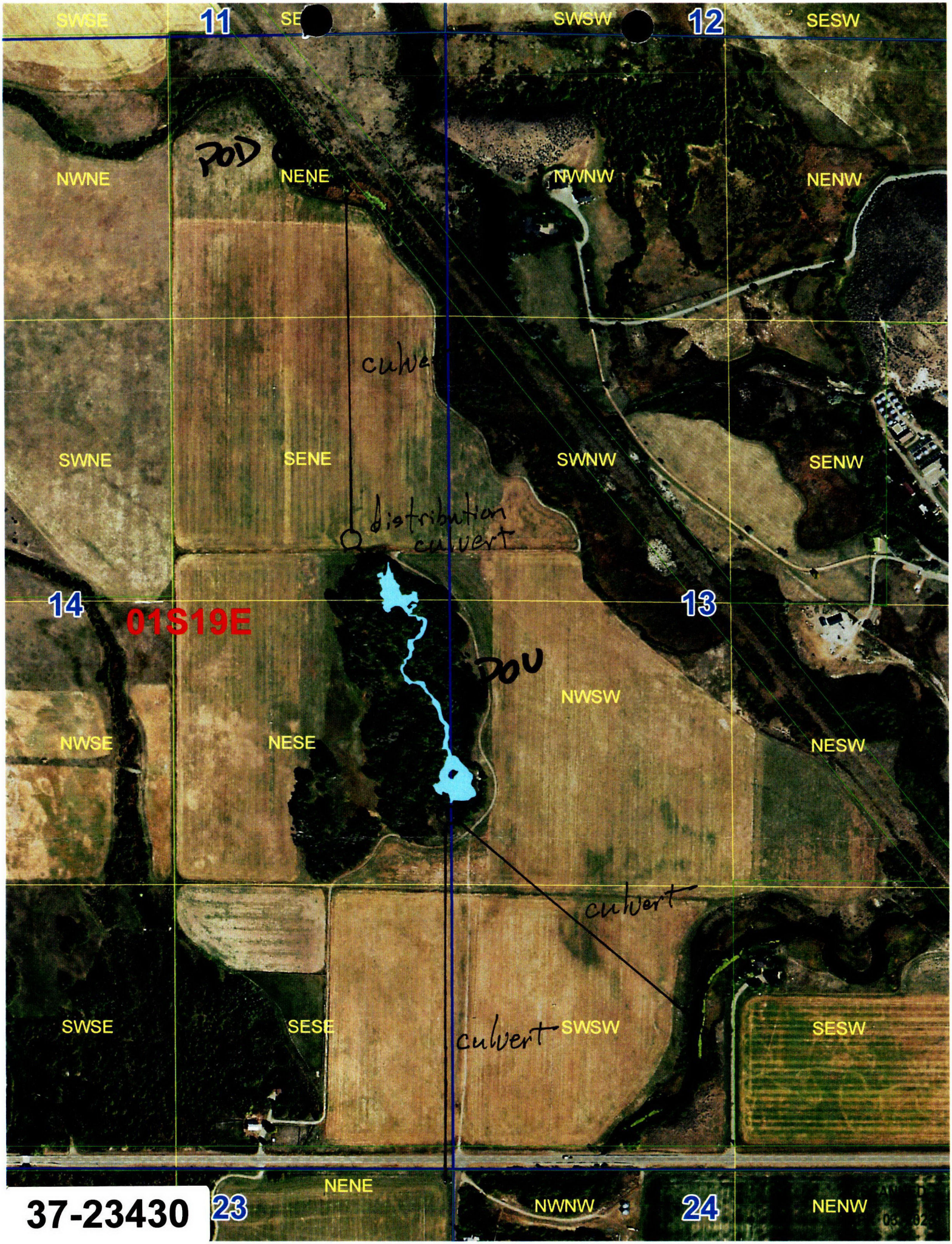
I hope this information assists with your water right application process. Please fell free to give me a call if you have any further questions.

Sincerely,

Dale E. Miller
Hydrologist/Principal

DM/cf

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APR 03 2023


SWSE
11
SE
SWSW
12
SESW
POD
NWNE
NENE
NWNW
NENW
culvert
SWNE
SENE
SWNW
SENW
distribution
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14
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13
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37-23430

SCANNED
APR 03 2023

IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

September 11, 2024

STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE ID 83313-5116

PROOF ACKNOWLEDGEMENT LETTER

RE: Permit No. 37-23430

Dear Permit Holder(s):

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

Please be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the Department. Forms to file a change of ownership of a water right and/or a change in the address of the water right 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 field examination, please contact the Southern Region Office of the Department located in Twin Falls at (208) 736-3033.

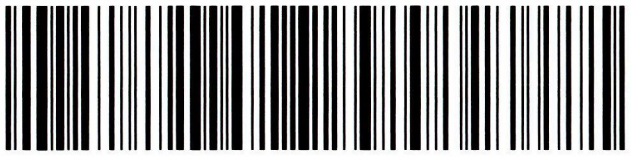
Sincerely,

Amanda Velbell
Technical Records Specialist

Enclosure(s)

322 E FRONT ST
PO BOX 83720
BOISE ID 83720-0098

USPS CERTIFIED MAIL



9214 8901 9403 8372 1574 34

STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE ID 83313-5116

37-23430
Username: Amanda Veibell

IDAHO DEPARTMENT OF
WATER RESOURCES

322 E Front Street, Suite 648, Boise ID 83702 • PO Box 83720, Boise ID 83720-0098
Phone: 208-287-4800 • Fax: 208-287-6700 • Email: idwrinfo@idwr.idaho.gov • Website: idwr.idaho.gov

Governor Brad Little Director Mathew Weaver

July 31, 2024

STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE ID 83313-5116

NOTICE: STATEMENT OF COMPLETION DUE

RE: Permit No. 37-23430

IMPORTANT: A response from you is required to maintain the active status of the referenced water right permit. If no response is received from you, the permit will lapse and your authorization to develop and/or use this water right will be cancelled.

Dear Permit Holder(s):

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 **October 01, 2024**. Please complete and return the enclosed Statement of Completion for Submitting Proof of Beneficial Use (proof) if you have completed the water project authorized by your permit. The proof statement must be accompanied by either the appropriate license examination fee or a field examination report prepared by a certified water right examiner.

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 delayed by a government agency or by litigation that brings title to the water in question, an extension of time may be granted if appropriate documentation is provided at the time of filing. An extension request must be accompanied by a $50.00 filing fee and signed by the appropriate authorized permit holder(s) or authorized representative with a power of attorney.

Either an acceptable proof or an acceptable extension request must be received by this department on or before the above proof due date. If neither is received, the department will send you a lapse notice and the permit will no longer be of any force or effect.

Sincerely,

Amanda Veibell

Amanda Veibell
Technical Records Specialist

Enclosure(s)

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 19, 2023

STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE ID 83313-5116

RE: Permit No. 37-23430

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 note that pursuant to the approval of 37-23430, the official water right records for 37-8571, 37-23424 and 37-22777 have been updated accordingly to reflect the mitigation components.

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SEP 19 2023

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 a change in ownership 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) 736-3033.

Sincerely,

Corey Skinner
Southern Regional Manager

Enclosure(s)

SCANNED
SEP 19 2023

CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2023, I served a true and correct copy of Permit to Appropriate Water No. 37-23430 by U.S. Mail, postage prepaid, to the following:

STEPHEN T BARNARD (Current Owner)
18450 HIGHWAY 20
BELLEVUE ID 83313-5116

IDAHO POWER COMPANY (Protestant)
C/O MARTEN LAW LLP
JOHN K SIMPSON
PO BOX 2139
BOISE ID 83701-2139

WATER DISTRICT #37
SUNNY HEALEY (Watermaster)
107 W 1ST ST
SHOSHONE ID 83352-5425

Denise Maline

Denise Maline
Administrative Assistant 1

SCANNED
SEP 19 2023

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.

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SEP 19 2023

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.

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SEP 19 2023

IDAHO DEPARTMENT OF WATER RESOURCES **9/18/2023**

Water Right 37-8571

Owner Type	**Name and Address**
Current Owner	STEPHEN T BARNARD 18450 HIGHWAY 20 BELLEVUE, ID 83313-5116 (650) 644-9516

Priority Date: 9/22/1989
Basis: License
Status: Active

Source	**Tributary**
GROUND WATER	

Beneficial Use	**From**	**To**	**Diversion Rate**	**Volume**
MITIGATION BY NON-USE	01/01	12/31	5.000 CFS	1,983.5 AF
	Total Diversion		5.000 CFS	1,983.5 AF

Source and Point(s) of Diversion:

GROUND WATER	SESENE	Sec. 14, Twp 01S, Rge 19E, BLAINE County

Place Of Use:
MITIGATION BY NON-USE within BLAINE County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01S	19E	13										X							
01S	19E	14				X									X				

Conditions of Approval:

1.	193	This right mitigates for the depletion of water resulting from the diversion and use of water under Right 37-23430. To prevent injury to other water right holders, the right holder shall cease diverting 5.00 cfs of this right from groundwater. If the mitigation portion of this right is used for any purpose other than conveyance loss, then water shall not be diverted under Right 37-23430. If the mitigation portion of this right is not deliverable due to a shortage of water or a priority call, then the amount of water authorized for diversion under the uses of Right 37-23430 that are being mitigated shall be reduced by the same proportion as the reduction to this right.
2.		This right provides water to the ponds associated with right 37-8569.
3.	R05	Use of water under this right will 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. 37M.
4.	R43	The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
5.	X35	Rights 37-23424, 37-22777, 37-2553A, and 37-8571 when combined shall not

SCANNED
SEP 19 2023

exceed a total diversion rate of 5.18 cfs.

6. 027 Use of water under this right shall be non-consumptive.

7. The holders of senior water rights may seek review and amendment of this license in the event the withdrawal of groundwater pursuant to the license adversely affecting the senior water right holders or water rights for the Hayspur Hatchery. The burden of proof shall be upon the persons seeking such review and amendment.

8. The Director of the Department of Water Resources retains jurisdiction over this right to require compensation to other rights, or to the hydrologic system for losses which may occur as a result of this use.

Dates and Other Information:
Licensed Date: 1/14/2013
Water District Number: 37
Swan Falls Trust or Nontrust: T
Mitigation Plan: False

Combined Use Limits:
N/A

SubCase:
N/A

Water Supply Bank:

N/A

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SEP 19 2023

IDAHO DEPARTMENT OF WATER RESOURCES **9/18/2023**

Water Right 37-23424

Owner Type	**Name and Address**
Current Owner	STEPHEN T BARNARD 18450 HIGHWAY 20 BELLEVUE, ID 83313-5116 (650) 644-9516

Priority Date: 12/5/1979
Basis: License
Status: Active

Source	**Tributary**
GROUND WATER	

Beneficial Use	**From**	**To**	**Diversion Rate**	**Volume**
IRRIGATION	04/15	10/31	1.880 CFS	327.7 AF
	Total Diversion		1.880 CFS	327.7 AF

Source and Point(s) of Diversion:

GROUND WATER	NWNW	Sec. 24, Twp 01S, Rge 19E, BLAINE County(R)
GROUND WATER	SENE	Sec. 14, Twp 01S, Rge 19E, BLAINE County
GROUND WATER	SWSW	Sec. 13, Twp 01S, Rge 19E, BLAINE County(I)

Place Of Use:

IRRIGATION within BLAINE County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01S	19E	13							10.0		10.0	36.0	30.0	1.6					87.6
01S	19E	14				3.2												3.1	6.3

POU Total Acres: 93.9

Conditions of Approval:

1.	004	The issuance of this right does not grant any right-of-way or easement across the land of another.
2.	R05	Use of water under this right will 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. 37M.
3.	R43	The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4.	X11	The right holder shall install and maintain acceptable measuring devices at the point of injection into Loving Creek and at the point of rediversion from Loving Creek.
5.	X35	Rights 37-23424, 37-22777, 37-2553A, and 37-8571 when combined shall not exceed a total diversion rate of 5.18 cfs.
6.	R55	This right is for the use of trust water and is subject to review 20 years after the

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SEP 19 2023

		issuance of the permit to determine availability of water and to re-evaluate the public interest.
7.	R63	This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
8.	065	The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
9.	105	If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used for irrigation purposes without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
10.		An intake screen acceptable to Idaho Fish & Game shall be installed at the point of rediversion on Loving Creek to prevent any negative impact on juvenile fish.

Dates and Other Information:
Water District Number: 37
Mitigation Plan: False

Combined Use Limits:
N/A

SubCase:
N/A

Water Supply Bank:

N/A

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SEP 19 2023

IDAHO DEPARTMENT OF WATER RESOURCES **9/18/2023**

Water Right 37-22777

Owner Type	**Name and Address**
Current Owner	AUBREY SPRING RANCH LLC 18450 HWY 20 BELLEVUE, ID 83313 (650) 644-9516

Priority Date: 12/5/1979
Basis: License
Status: Active

Source	**Tributary**
GROUND WATER	

Beneficial Use	**From**	**To**	**Diversion Rate**	**Volume**
IRRIGATION	04/15	10/31	1.300 CFS	227.5 AF
	Total Diversion		1.300 CFS	227.5 AF

Source and Point(s) of Diversion:

GROUND WATER	NWNW	Sec. 24, Twp 01S, Rge 19E, BLAINE County(R)
GROUND WATER	SENE	Sec. 14, Twp 01S, Rge 19E, BLAINE County
GROUND WATER	SWSW	Sec. 13, Twp 01S, Rge 19E, BLAINE County(I)

Place Of Use:

IRRIGATION within BLAINE County

			NE				NW				SW				SE				
Twp	Rng	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01S	19E	23	36.0			29.0													65.0

POU Total Acres: 65.0

Conditions of Approval:

1.	004	The issuance of this right does not grant any right-of-way or easement across the land of another.
2.	R05	Use of water under this right will 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. 37M.
3.	R43	The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion(s).
4.	X11	The right holder shall install and maintain acceptable measuring devices at the point of injection into Loving Creek and at the point of rediversion from Loving Creek.
5.	X35	Rights 37-23424, 37-22777, 37-2553A, and 37-8571 when combined shall not exceed a total diversion rate of 5.18 cfs.
6.	R55	This right is for the use of trust water and is subject to review 20 years after the issuance of the permit to determine availability of water and to re-evaluate the public interest.

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SEP 19 2023

7.	R63	This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
8.	065	The right holder shall make full beneficial use of all surface water rights available to the right holder for irrigation of the lands authorized to be irrigated under this right. The right holder shall limit the diversion of ground water under this right to those times when the surface water supply is not available or the surface water supply is not reasonably sufficient to irrigate the place of use authorized under this right.
9.	105	If the surface water right(s) appurtenant to the place of use is abandoned, forfeited, sold, transferred, leased or used on any other place of use, this right to divert ground water shall not be used for irrigation purposes without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.
10.		An intake screen acceptable to Idaho Fish & Game shall be installed at the point of rediversion on Loving Creek to prevent any negative impact on juvenile fish.

Dates and Other Information:
Licensed Date: 1/14/2013
Water District Number: 37
Mitigation Plan: False

Combined Use Limits:
N/A

SubCase:
N/A

Water Supply Bank:

N/A

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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 11, 2023

STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE, ID 83313-5116

Re: Stipulation for Withdrawal of Protest against Application for Permit No(s). 37-23430

Dear Applicant(s):

The Department of Water Resources has received a Stipulation for Withdrawal of Protest against the above referenced application. This Stipulation was received from the following protestants:

1) Idaho Power Company

The application does not have any remaining protests; therefore, the department will take the steps necessary to bring the application to a final resolution.

Please contact this office if you have any questions regarding this procedure. Information about water rights and other matters administered by this agency is also available on the Internet at www.idwr.idaho.gov.

Sincerely,

Corey Skinner
Southern Regional Manager

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SEP 11 2023

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 11, 2023

IDAHO POWER COMPANY
C/O MARTEN LAW LLP
JOHN K SIMPSON
PO BOX 2139
BOISE, ID 83701-2139

Re: Stipulation for Withdrawal of Protest against Application for Permit No(s). 37-23430
(Stephen T Barnard)

Dear Protestant(s):

The Department of Water Resources acknowledges receipt of your Stipulation for Withdrawal of Protest against the above referenced application.

The application does not have any remaining protests; therefore, the department will take the steps necessary to bring the application to a final resolution.

Please contact this office if you have any questions regarding this procedure. Information about water rights and other matters administered by this agency is also available on the Internet at www.idwr.idaho.gov.

Sincerely,

Corey Skinner
Southern Regional Manager

c: Scott N Pugrud, Idaho Power Company

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SEP 11 2023

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SEP 08 2023
DEPT OF WATER RESOURCES
SOUTHERN REGION
(E-file)

Scott N. Pugrud, ISB No. 8883
IDAHO POWER COMPANY
1221 W Idaho Street
P.O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-6454
Facsimile: (208) 388-6935
spugrud2@idahopower.com

John K. Simpson, ISB No. 4242
MARTEN LAW LLP
101S. Capitol Blvd., Ste. 305
P.O. Box 2139
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
jsimpson@martenlaw.com

Attorneys for Idaho Power Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 37-23430 In the name of Stephen T. Barnard	**STIPULATION FOR WITHDRAWAL OF PROTEST**

COMES NOW, Idaho Power Company (the "Company") and Stephen T. Barnard, ("Applicant"), collectively "Parties" and hereby stipulate and agree to the withdrawal of the Company's protest filed in Application No. 37-23430 upon the following conditions:

1. In reaching this Stipulation, the parties recognize that the terms of this Stipulation do not authorize the issuance of a permit, but simply resolve the protest and allow the Department to process the application. The IDWR must still determine that all of the conditions enumerated in Idaho Code § 42- 203A(5) are satisfied.

2. The applicant recognizes that the State is commencing a review of "Trust Water" rights as defined by the Department's Appropriation Rules and the Snake River Basin Adjudication Court in Order dated June 25, 2015, and that such review may

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SEP 11 2023

include the cancellation of Trust Water rights or reallocation of Trust Water for other purposes for the benefit of the citizens of the State of Idaho and Idaho Power Company.

STB

3. Applicant agrees to cease exercising Water Right no. 37-08571 ~~(Surface water right)~~ as full and complete mitigation for the processing of Application 37-23430 pursuant to the Moratorium Order dated October 21, 2022. Water right no. 37-08571 ~~(surface water right)~~ shall not be used for any other purpose or as mitigation for any other water right.

STB

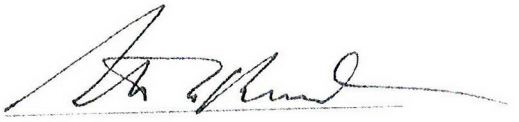
4. Any permit granted shall contain the following Trust Water condition:

"This right is for the use of trust water which is identified and defined in the 1984 Swan Falls Agreement and subsequent Settlement. The right shall be 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. This right shall remain subject to review by the Director consistent with the terms and limits imposed upon trust water rights issued by the State and arising out of the 1984 Swan Falls Settlement.

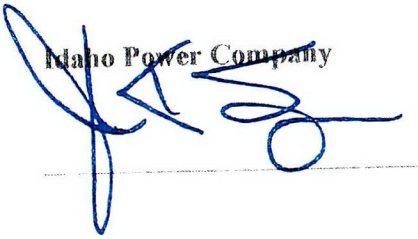
Further, this right is within a moratorium area requiring 100% mitigation as provided below. Regulation of this right to satisfy the minimum flows of 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31 at the Murphy gage shall not be required so long as mitigation is satisfied. The right holder shall submit annual diversion records to IDWR associated with this right and the mitigation right to confirm that the mitigation requirement is satisfied."

DATED this 16 day of August, 2023.

Stephen T Barnard



Idaho Power Company



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SEP 11 2023

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of September 2023, I served the original of the foregoing **STIPULATION FOR WITHDRAWAL OF PROTEST**, as indicated, addressed to the following:

Idaho Department of Water Resources
Idaho Water Center
322 East Front Street
Boise, Idaho 83702-7374

_____ U.S. Mail, Postage Prepaid
_____ Hand Delivery
_____ Overnight Mail
_____ Facsimile
__x__ Email

Stephen T. Barnard
18450 Highway 20
Bellevue, ID 83313

_____ U.S. Mail, Postage Prepaid
_____ Hand Delivery
_____ Overnight Mail
_____ Facsimile
__x__ Email: rw56@earthlink.net



John K. Simpson

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SEP 11 2023

Skinner, Corey

From: Mills, Bill
Sent: Monday, September 11, 2023 7:37 AM
To: Skinner, Corey; Maline, Denise
Subject: FW: In the Matter of Application for Permit No. 37-23430
Attachments: Signed Stipulation - S Barnard 37-23430.pdf

From: Stephen Barnard <rw56@earthlink.net>
Sent: Friday, September 8, 2023 3:30 PM
To: Mills, Bill <Bill.Mills@idwr.idaho.gov>
Subject: Fwd: In the Matter of Application for Permit No. 37-23430

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.**

-------- Forwarded Message --------
Subject: In the Matter of Application for Permit No. 37-23430
Date: Fri, 8 Sep 2023 20:56:49 +0000
From: Ailen Evaniuck <aevaniuck@martenlaw.com>
To:IDWR File <file@idwr.idaho.gov>
CC: John K. Simpson <jsimpson@martenlaw.com>, Scott Pugrud <spugrud2@idahopower.com>, rw56@earthlink.net <rw56@earthlink.net>

Dear Clerk,

Attached please file the Stipulation for Withdrawal of Protest regarding the above-matter.

Sincerely,

Ailen Evaniuck
Legal Assistant

D – 208.336.0700
M – 208.957.8058
E - aevaniuck@martenlaw.com

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SEP 11 2023

martenlaw.com
101 S. Capitol Blvd., Suite 305
Boise, ID 83702

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SEP 11 2023

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 Gary Spackman

May 8, 2023

STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE, ID 83313-5116

IDAHO POWER COMPANY
C/O MARTEN LAW LLP
JOHN K SIMPSON
PO BOX 2139
BOISE, ID 83701-2139

RE: Application for Permit No(s). 37-23430

Dear Parties:

This letter acknowledges receipt of a protest(s) filed against Application for Permit No(s). 37-23430. The following options are available for the resolution of protested applications:

- Direct contact between the parties to determine the nature of the protest(s) and to attempt to resolve the protest. Sincere conversation between the parties prior to initiation of formal proceedings can often resolve protest(s).
- Discussions at an informal settlement conference between Department staff, the applicant(s), and the protestant(s). The enclosed document summarizes the informal settlement conference purpose and procedure.
- Formal proceedings administered by the Department after the informal settlement conference. If formal proceedings are necessary, the Department will schedule a prehearing conference to begin the process.

Please consider the best option(s) for resolution of the protested application.

If no resolution is reached, you may be notified that an informal settlement conference will be scheduled. Prior to scheduling this conference, you will be contacted for available dates. The Department may schedule this as a phone call or in person conference. The Department will send notice of the informal settlement conference once it is scheduled.

You may contact this office if you have any questions regarding the procedure discussed in this letter or additional information regarding the application, protest(s), water rights, and other matters administered by the Department is available on the Internet at www.idwr.idaho.gov.

Sincerely,

Denise Maline

Denise Maline, Administrative Assistant 1
(208) 293-9908
denise.maline@idwr.idaho.gov

Enclosure(s): Informal Settlement Conference Procedure

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MAY 08 2023

INFORMAL SETTLEMENT CONFERENCE PROCEDURE
APPLICATION FOR PERMIT

ISSUES

Applications to appropriate the water of the state of Idaho are referred to as applications for permit and are for the development of new water rights. Section 42-203A, Idaho Code, requires the Idaho Department of Water Resources (Department) to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation reduce the quantity of water under existing water rights?

2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?

3. Was the application made in good faith or for delay or speculative purposes?

4. Does the applicant have sufficient financial resources with which to complete the proposed project?

5. Will the proposed use conflict with the local public interest, where local public interest is defined as interests that the people in the area directly affected by a proposed water use have in the effects of such use on the public water resource?

6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?

7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, 6, and 7 above and must provide evidence for the Department to evaluate these criteria.

The initial burden of proof on issue 5 lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for all of these issues.

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MAY 08 2023

PROCEDURE

The Department generally conducts an informal settlement conference with the parties to determine the issues and to try to settle a protested matter before the formal hearing process starts. The formal hearing process commences with a prehearing conference, which may require parties to be represented by an attorney.

INFORMAL SETTLEMENT CONFERENCE

The purpose of an informal settlement conference is to provide the opportunity for the parties and the Department to familiarize themselves with a protested matter and to attempt to resolve the matter. At the conference, the Department and the parties will discuss the application and protests, explore settlement options, discuss additional informational needs, evaluate the need for additional informal proceedings or alternative dispute resolution options such as mediation, and discuss the commencement of formal proceedings. When attending the conference, please bring a calendar with your schedule for the next two–six month period from the date of the informal settlement conference for the purpose of scheduling follow-up conferences, if needed.

HEARING

If the parties do not resolve the matter at the informal settlement conference, a formal hearing process may be commenced according to Sections 42-1701A(1) and (2), Idaho Code and the Department's Rules of Procedure. Copies of Idaho Code and the Department's rules are available upon request or by accessing the Department's website at: www.idwr.idaho.gov. The Department records formal hearings, and copies of a hearing recording are available upon request. There may be a charge for reproducing the recording.

If necessary, the hearing will likely be conducted by a hearing officer appointed by the Director rather than by the Director himself. The hearing officer will be designated in a notice of prehearing conference that commences the formal hearing process.

AMERICANS WITH DISABILITIES ACT

Any scheduled conferences or hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please notify the Department no later than ten (10) days prior to the conference or hearing.

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MAY 08 2023

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APR 27 2023
DEPT OF WATER RESOURCES
SOUTHERN REGION

RECEIVED
APR 24 2023
DEPARTMENT OF
WATER RESOURCES
Receipt #
C116029

Scott N. Pugrud, ISB No. 8883
IDAHO POWER COMPANY
1221 W Idaho Street
P.O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-6454
Facsimile: (208) 388-6935
spugrud2@idahopower.com

John K. Simpson, ISB No. 4242
MARTEN LAW LLP
1010 Jefferson St., Ste 102
P.O. Box 2139
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034
jsimpson@martenlaw.com

Attorneys for Idaho Power Company

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 37-23430 In the name of Stephen T. Barnard	**NOTICE OF PROTEST**

IDAHO POWER COMPANY (the "Protestant"), by and through its attorneys of record, files this *Notice of Protest* to the approval of the above-numbered *Application for Permit* filed by Stephen T. Barnard (the "Applicant").

The initial bases for the protest are as follows:

1. The Applicant failed to demonstrate that the water supply is sufficient for the diversion of water under this application.

2. The source of water is located within Water District 37 and has been recognized as Trustwater by the State of Idaho as defined in IDAPA 37.03.08.031(a), and should reference

SCANNED
APR 27 2023

conditions on the exercise of this right and demonstrate that Trustwater is available.

3. Mitigation is required consistent with the Moratorium Orders for the Big Wood basin and Snake River Basin and it is unclear whether the mitigation offered is sufficient.

4. Mitigation described in the application is Trustwater as defined in IDAPA 37.03.08.031(a), and by the SRBA order dated June 25, 2015, and as such initial and continual availability of mitigation is uncertain given the State's trustwater review.

5. For such other and further reasons as may be discovered or set forth at the hearing on this matter.

DATED this 24rd day of April, 2023.

MARTEN LAW LLP

John K. Simpson
Attorneys for Idaho Power Company

SCANNED
APR 27 2023

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of April 2023, I served the original of the foregoing **NOTICE OF PROTEST**, by hand-delivering or depositing same in the U.S. Mail, postage prepaid, as indicated, addressed to the following:

Idaho Department of Water Resources Idaho Water Center 322 East Front Street Boise, Idaho 83702-7374	_____ U.S. Mail, Postage Prepaid __x__ Hand Delivery _____ Overnight Mail _____ Facsimile _____ Email
Stephen T. Barnard 18450 Highway 20 Bellevue, ID 83313	__x__ U.S. Mail, Postage Prepaid _____ Hand Delivery _____ Overnight Mail _____ Facsimile __x__ Email: rw56@earthlink.net

John K. Simpson

Receipted by S.O. / K.M.
Receipt amt. $50.00 (total)
Receipt No. C116029
Date 4-24-2023

SCANNED
APR 27 2023

RECEIVED
APR 21 2023
DEPT OF WATER RESOURCES
SOUTHERN REGION

State of Idaho

Department of Water Resources

RECOMMENDATION FORM

Re: Application for Permit No. 37-23430

New Appropriation Applicant's Name: STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE ID 83313-5116

Recommendation

a) _____ I do not oppose approval of this application

b) __X_____ I do not oppose approval of this application if it is conditioned as follows.

Under no circumstance may the new water right be prioritized or used if water right 37-8571 is also in use (either partially or in full).

c) _____ I oppose approval of this application for the following reasons:

d) _____ Additional comments:

Dated this 21 day of April, 2023

Dept of Fish & Game

Bradley Dawson
Signature

Bradley Dawson
Printed Name

SCANNED
APR 25 2023

RECEIVED
APR 14 2023
DEPT OF WATER RESOURCES
SOUTHERN REGION

AFFIDAVIT of PUBLICATION

State of Idaho
County of Blaine

Pam Morris, being the first duly sworn, deposes and says that she is the printer (publisher) of the Idaho Mountain Express, a newspaper published every week in Ketchum, County of Blaine, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 5 day of April, 2023, and the date of the last publication was on the 12 day of April, 2023

Pam Morris

Subscribed and sworn to before me this 12 day of April, 2023.

NOTARY PUBLIC

ALLISON KINDRED
NOTARY
PUBLIC
STATE OF IDAHO

RESIDING AT HAILEY, IDAHO
MY COMMISSION EXPIRES ON 5/26/23

COPY OF NOTICE

Legal Notice
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR
BILL TO

IDAHO MOUNTAIN EXPRESS
P.O. Box 1013
Ketchum, Idaho 83340

COST OF PUBLICATION

Number of Picas per Line 11.5

Number of Lines in Notice 64

Number of Insertions 2

	Lines tabular at		9.0 cents/pica
64	Lines straight at	$58.88	8.0 cents/pica
64	Subsequent lines at	$51.52	7.0 cents/pica
	TOTAL COST	$110.40	

✓ DM 4-25-2023

SCANNED
APR 25 2023

LEGAL NOTICE

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

37-23430

STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE, ID 83313-5116
Point of Diversion NWNENE S14 T01S R19E BLAINE County Source LOVING CREEK Tributary SILVER CREEK
Use: WILDLIFE 01/01 to 12/31 2 CFS
Total Diversion: 2 CFS
Date Filed: 03-06-2023
Place Of Use: WILDLIFE
T01S R19E S13 NWSW
Place Of Use: WILDLIFE
T01S R19E S14 SENE, NESE

Application for permit proposes the appropriation of 2.0 cfs of water from Loving Creek for wildlife use associated with two existing ponds. This use will be mitigated by non-use of wildlife ground water right 37-8571 (5.0 cfs). The proposed point of diversion (POD) is an existing POD located approximately 7.9 miles south and 5.0 miles east of the intersection of Chestnut St & Hwy 75 in Bellevue. Place of use is located approximately 8.4 to 8.6 miles south and 5.0 miles east of the intersection of Chestnut St & Hwy 75 in Bellevue. 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.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or for a full description of the right(s), please see https://research.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application 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 **April 24, 2023**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

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IDAHO MOUNTAIN EXPRESS
APRIL 5 & 12, 2023

✓ DM 4-25-2023

SCANNED
APR 25 2023

RECEIVED
APR 06 2023
DEPT OF WATER RESOURCES
SOUTHERN REGION

State of Idaho

Department of Water Resources

RECOMMENDATION FORM

Re: Application for Permit No. 37-23430

New Appropriation Applicant's Name: STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE ID 83313-5116

Watermaster's Recommendation:

a) ___X___ I do not oppose approval of this application.

b) _____ I do not oppose approval of this application if it is conditioned as follows:

c) _____ I oppose approval of this application for the following reasons:

d) _____ Additional comments:

Dated this 6 day of April, 2023

Water District 37

S Healy
Watermaster's Signature

Sunny Healey
Printed Name

SCANNED
APR 25 2023

Engineering Services" on the outside of the package and shall be delivered in a sealed package to:

Mailing Address: City of Bellevue
PO Box 825
Bellevue, ID 83313

Delivery/Courier City of Bellevue
115 E. Pine Street
Bellevue, ID 83313

The City, in accordance with Title VI of the Civil Rights Act of 1964 (42 US.C. §§ 2000d to 2000d-4) and the Regulations, notifies all bidders that it will ensure that disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin.

Questions concerning this RFQ shall be submitted via email to Troy@athenian-partners.com.

PUBLISH
IDAHO MOUNTAIN EXPRESS
APRIL 5 & 12, 2023

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT FOR THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

IN RE: KYZER VON STROEBEL-HAFT

CASE NO. CV07-23-163

NOTICE OF HEARING ON NAME CHANGE (Minor)

A Petition to change the name of KYZER VON STROEBEL-HAFT, a minor, now residing in the City of Ketchum, State of Idaho, has been filed in the District Court in Blaine County, Idaho. The name will change to TARA HAFT. The reason for the change in name is personal preference.

A hearing on the petition is scheduled for 9:00 o'clock on May 16, 2023 at the Blaine County Courthouse. Objections may be filed by any person who can show the court a good reason against the name change.

Date: 3/28/2023

CLERK OF THE DISTRICT COURT

/s/Stephen McDougall Graham

PUBLISH
IDAHO MOUNTAIN EXPRESS
APRIL 5, 12, 19 & 26, 2023

ADVERTISEMENT FOR BID

Bids will be received by Conrad Brothers Construction for the Wood River Middle School HVAC Project Phase I.

Bids will be received in the Conrad Brothers Construction Office until 2:00 PM prevailing local time, on Tuesday, May 2nd, 2023. Bids received after the time fixed for opening will not be considered.
Address: 105 Lewis St. Suite 101
Ketchum, ID 83340
Phone: (208) 726-3830
Faxe: (208) 726-5788

Project Documents will be available electronically (PDF format) at no cost upon request from Conrad Brothers Construction beginning on Monday, April 3rd for Licensed Contractors in the State of Idaho. Contractors may obtain hardcopy sets by paying the cost of reproduction, which will not be refunded.

There will be a Pre-Bid Conference at Wood River Middle School for all interested bidders on Tuesday, April 11th, at 3:00 PM.

This Public Works project is not financed in whole or in part by federal-aid funds. Bid proposals will be accepted from those contractors who, prior to the bid opening, hold current licenses as public works contractors in the State of Idaho.

All work shall be performed under Title 54, Chapter 19, of the Idaho code governing Public Works Contracts. Each bidder shall identify his Public Works Contractors State License Number in space provided on the Bid Proposal Form.

Complete sets of Drawings and Project Manuals are on file at the following locations for subcontractors to examine them.

Associated General Contractors
1649 W. Shoreline Dr., Suite 100
Boise, ID 83702

McGraw-Hill Plan Room
www.construction.com

ConstructConnect
www.constructconnect.com

PUBLISH
IDAHO MOUNTAIN EXPRESS
APRIL 5, 12 & 19, 2023

LEGAL NOTICE

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
37-23430
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18450 HIGHWAY 20
BELLEVUE, ID 83313-5116
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Use: WILDLIFE 01/01 to 12/31 2 CFS
Total Diversion: 2 CFS
Date Filed: 03-06-2023
Place Of Use: WILDLIFE
T01S R19E S13 NWSW
Place Of Use: WILDLIFE
T01S R19E S14 SENE, NESE
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Permits will be subject to all prior water rights. For additional information concerning the property location, contact Southern Region office at (208) 736-3033; or for a full description of the right(s), please see https://research.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application 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 **April 24, 2023**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

PUBLISH
IDAHO MOUNTAIN EXPRESS
APRIL 5 & 12, 2023

THE WOOD RIVER FIRE PROTECTION DISTRICT PROPOSED NEW FEE SCHEDULE APRIL 19, 2023

NOTICE IS HEREBY GIVEN: The Wood River Fire Protection District will be proposing a new fee schedule on Wednesday, April 19, 2023, during the regularly scheduled Commissioner Board Meeting starting at 3:00 pm at the **Wood River Fire & Rescue, Station 3, 11053 Highway 75, Bellevue, Idaho.**

Details of the proposed fee schedule may be reviewed on the Wood River Fire & Rescue website: www.wrfr.com

Stephanie Jaskowski
Fire District Clerk

PUBLISH
IDAHO MOUNTAIN EXPRESS
APRIL 5 & 12, 2023

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Sun Valley Planning & Zoning Commission will hold a public hearing on **Thursday, April 20th, 2023, at 9:00 AM** in City Hall Council Chambers, 81 Elkhorn Road, Sun Valley, ID to hear comments from the public concerning the following items:

- **DR 2023-08:** Design review application for a new single-family residence. Applicant: Anderson Architecture for Jack and Marilyn Rubin. Location: 107 Blue Grouse (Proctor Ridge Sub Lot 11)

Direct comments/questions to the City of Sun Valley Community Development Dept., at PO Box 416, Sun Valley, ID 83353, or cdcounter@sunvalleyidaho.gov. Please check the city website for the meeting agenda and application materials.

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IDAHO MOUNTAIN EXPRESS
APRIL 5, 12 & 19, 2023



Proof of legal notice received from Idaho Mtn Express 4-3-2023

✓ DM 4-3-2023

SCANNED
APR 25 2023

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 Gary Spackman

March 31, 2023

STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE, ID 83313-5116

RE: Application for Permit No. 37-23430

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 4/5/2023 and 4/12/2023**. 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 **April 24, 2023**.

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

Denise Maline
Administrative Assistant

SCANNED
APR 03 2023

Maline, Denise

From: Maline, Denise
Sent: Friday, March 31, 2023 3:25 PM
To: Sunny
Cc: Brittany (WD37)
Subject: Comment Letter for Application for Permit 37-23430 - Stephen Barnard
Attachments: Application for Permit 37-23430 (Barnard).pdf; Comment letter to WD37 for 37-23430.docx

Hi Sunny,

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

If you have any questions regarding this application, please feel free to contact Bill Mills at our office.

Thank you in advance,

Denise @ IDWR Twin Falls

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

SCANNED
APR 03 2023

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 Gary Spackman

March 31, 2023

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

RE: Application for Permit No(s). 37-23430 (Stephen Barnard)

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 past. 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)

SCANNED
APR 03 2023

Maline, Denise

From: Maline, Denise
Sent: Friday, March 31, 2023 3:27 PM
To: Dawson,Bradley
Subject: Comment Letter for Application for Permit 37-23430 - Stephen Barnard
Attachments: Comment letter to F&G for 37-23430.docx; Application for Permit 37-23430 (Barnard).pdf

Hi Bradley,

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

If you have any questions regarding this application, please feel free to contact Bill Mills at our office.

Thank you in advance,

Denise @ IDWR Twin Falls

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

SCANNED
APR 03 2023

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 Gary Spackman

March 31, 2023

IDAHO DEPT OF FISH & GAME
BRADLEY DAWSON
324 S 417 E STE 1
JEROME ID 83338-6206

RE: Application for Permit No(s). 37-23430 (Stephen Barnard)

Dear Bradley:

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

IDWR can finish reviewing an unprotested application as soon as the protest period has past. Therefore, your prompt response to this request is appreciated. If your organization desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a $25.00 filing fee within 10 days after final publication **(on or before April 24, 2023)**.

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

Sincerely,

Denise Maline

Denise Maline
Administrative Assistant 1

Enclosure(s)

SCANNED
APR 03 2023

Maline, Denise

From: Maline, Denise
Sent: Friday, March 31, 2023 2:52 PM
To: Idaho Mountain Express
Subject: LEGAL NOTICE - CORRECTED
Attachments: Idaho Mtn Express ad.docx

Good afternoon,

Attached please find a *CORRECTED* legal notice being submitted for publication on April 5th & 12th, 2023. 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

Denise Maline, Administrative Assistant
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

SCANNED
APR 03 2023

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
37-23430
STEPHEN T BARNARD
18450 HIGHWAY 20
BELLEVUE, ID 83313-5116
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Date Filed: 03-06-2023
Place Of Use: WILDLIFE
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Place Of Use: WILDLIFE
T01S R19E S14 SENE, NESE
Application for permit proposes the appropriation of 2.0 cfs of water from Loving Creek for wildlife use associated with two existing ponds. This use will be mitigated by non-use of wildlife ground water right 37-8571 (5.0 cfs). The proposed point of diversion (POD) is an existing POD located approximately 7.9 miles south and 5.0 miles east of the intersection of Chestnut St & Hwy 75 in Bellevue. Place of use is located approximately 8.4 to 8.6 miles south and 5.0 miles east of the intersection of Chestnut St & Hwy 75 in Bellevue. 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.

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GARY SPACKMAN, Director
Published on April 5th & 12th, 2023

CORRECTED

SCANNED
APR 03 2023

Maline, Denise

From: Maline, Denise
Sent: Friday, March 31, 2023 12:42 PM
To: Idaho Mountain Express
Subject: LEGAL NOTICE
Attachments: Idaho Mtn Express cover letter.docx; Idaho Mtn Express ad.docx

Attached please find **(1)** legal notice being submitted for publication on April 5th & 12th, 2023. 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

Denise Maline, Administrative Assistant
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

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APR 03 2023

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 Gary Spackman

March 31, 2023

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

Re: Application for Permit No. 37-23430

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 April 24, 2023. Your cooperation is appreciated.

Sincerely,

Denise Maline

Denise Maline
Administrative Assistant

Enclosure(s)

SCANNED
APR 03 2023

The following application(s) have been filed to appropriate the public waters of the State of Idaho:
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GARY SPACKMAN, Director
Published on April 5th & 12th, 2023

SCANNED
APR 03 2023

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098
Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

March 8, 2023

STEVE BARNARD
18450 HIGHWAY 20
BELLEVUE ID 83313-5116

RE: Application for Permit to Appropriate Trust Water – No. 37-23430

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").[1] 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[2] and to IPC's water rights. As a result of the Swan Falls Settlement and subsequent legislation and court decrees, 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

[1] 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/.
[2] 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.

SCANNED
APR 03 2023

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.[3] 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,

Bill Mills

Enclosure: Withdrawal of Application form

[3] See Sections 42-203C and the Department's Water Appropriation Rules (IDAPA 37.03.08).

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APR 03 2023