

RECEIVED

FEB 25 2025

Form 113
12/07

DEPT. OF WATER RESOURCES
EASTERN REGION

Ident No. 31-12555

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

**NOTICE OF DIVERSION AS AN ALTERNATIVE TO
INSTREAM STOCKWATER USE**

(To provide notice of intent to divert surface water from a stream or riparian area to troughs or tanks as an alternative to instream use for the watering of livestock)

1. Name of right holder United States of America on Behalf of the USDA Forest Service

Phone 208-524-7500 Mailing address 1405 Hollipark Drive, Idaho Falls, ID 83401

Email _louis.wasniewski@usda.gov

2. Source of water supply Spring tributary to Sinks

3. Point of Diversion:

a) Is this notice based on an existing recorded instream stockwater right? If yes, provide the water right number _____

If no, describe the beginning and ending points for the instream stockwater use:

Beginning point is in Gov't. Lot _____, SE 1/4 NE 1/4 _____ 1/4,

Section 5, Township 13N Range 37E, B.M.,

Clark County.

Ending point is in Gov't. Lot _____, SE 1/4 NE 1/4 _____ 1/4,

Section 5, Township 13N Range 37E, B.M.,

Clark County.

b) Alternate point of diversion is in Gov't. Lot _____, _____ 1/4 SE 1/4 NE 1/4,
Section 5, Township 13N Range 37E, B.M., (FROM MAP)
_____ County.

4. Description of diversion and delivery system:

a) Describe the type of diversion A CMP headbox will be installed in the spring source to supply the stockwater trough. The spring source feeds an unnamed stream that flows for ~778ft and sinks before reaching Pass Creek.

b) Describe the delivery system A 1 1/4 inch polypipe will tie into the CMP headbox and feed water ~125ft away from the spring source to a stockwater trough.

c) Describe the number, type and total capacity of troughs or tanks One 600gal trough.

- d) Describe the automatic shutoff or flow control mechanism or means of returning unused water to the source The one 600gal trough will have a float shut-off valve along with a return pipe to the spring channel
- e) Describe how the system is designed to allow measurement of the rate of diversion The CMP headbox will supply spring water SE to the trough through 125ft of polypipe. The float shut-off valve will prevent overflowing and keep water directly at the source.

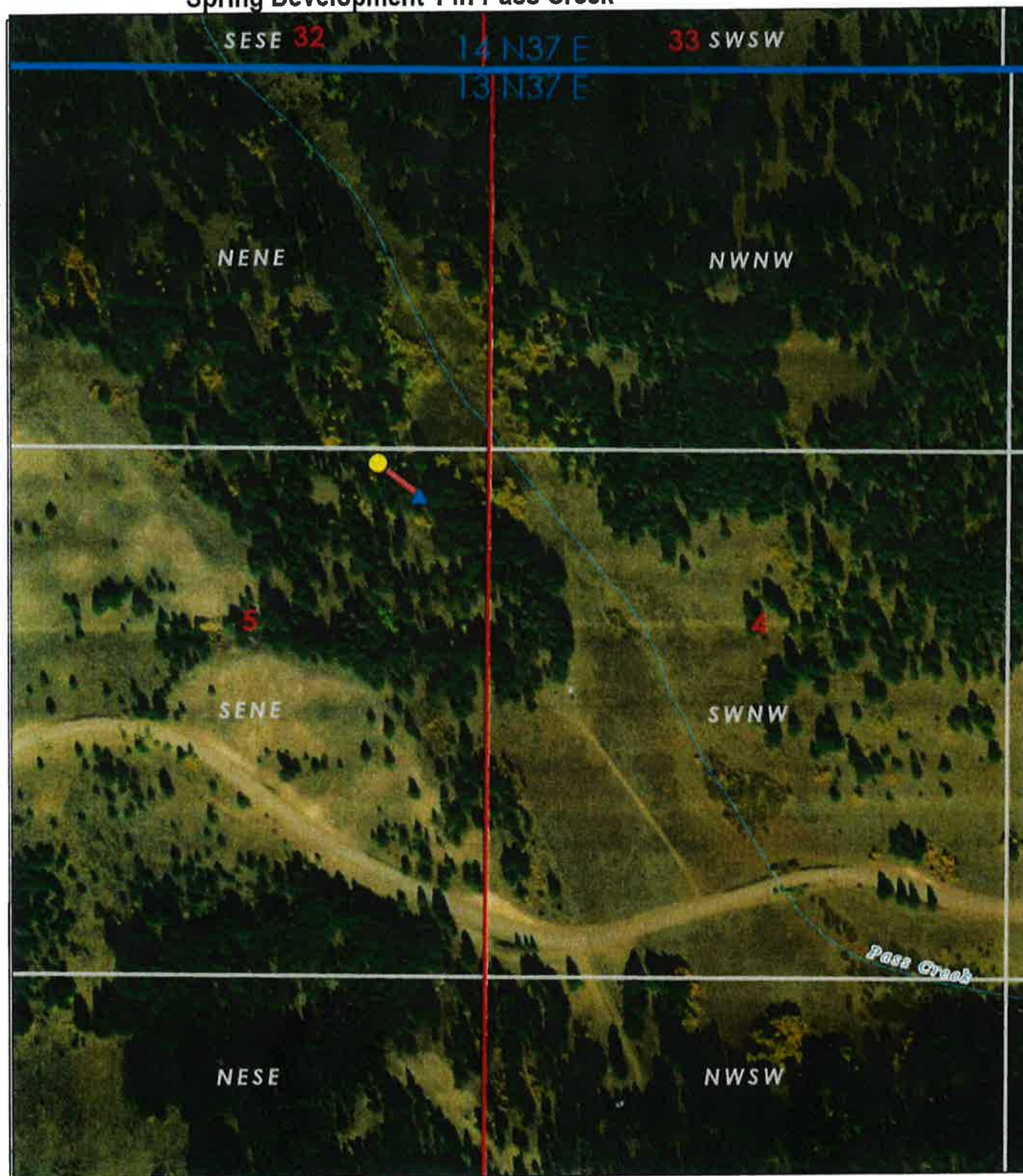
5. Describe the place of use by placing an X in the appropriate 40-acre tract(s) below:

TWP	RGE	SEC	NE				NW				SW				SE			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
13N	37E	5				S												

6. Priority date claimed or established 05/23/1905
7. Rate of diversion 0.02 cfs
8. Season of use: from 06/01 to 10/31
9. a) Who owns the property at the point of diversion? United States of America
b) Who owns the property at the place of use? United States of America
10. When will construction occur? May of 2025
11. Comments (include number and type of stock) The water will be used to support 908 cow calf pairs within the West Camas allotment. The spring feeds an unnamed stream that flows for approximately ~778ft before it subs out before it reaches Pass creek.
12. Map of project required - Attach an 8½"x11" map clearly identifying the location of the instream stockwater use and the locations of the alternative point(s) of diversion and stock trough(s). A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.



Spring Development 1 in Pass Creek






 1:4,000

 UTM Zone 12N
 NAD83

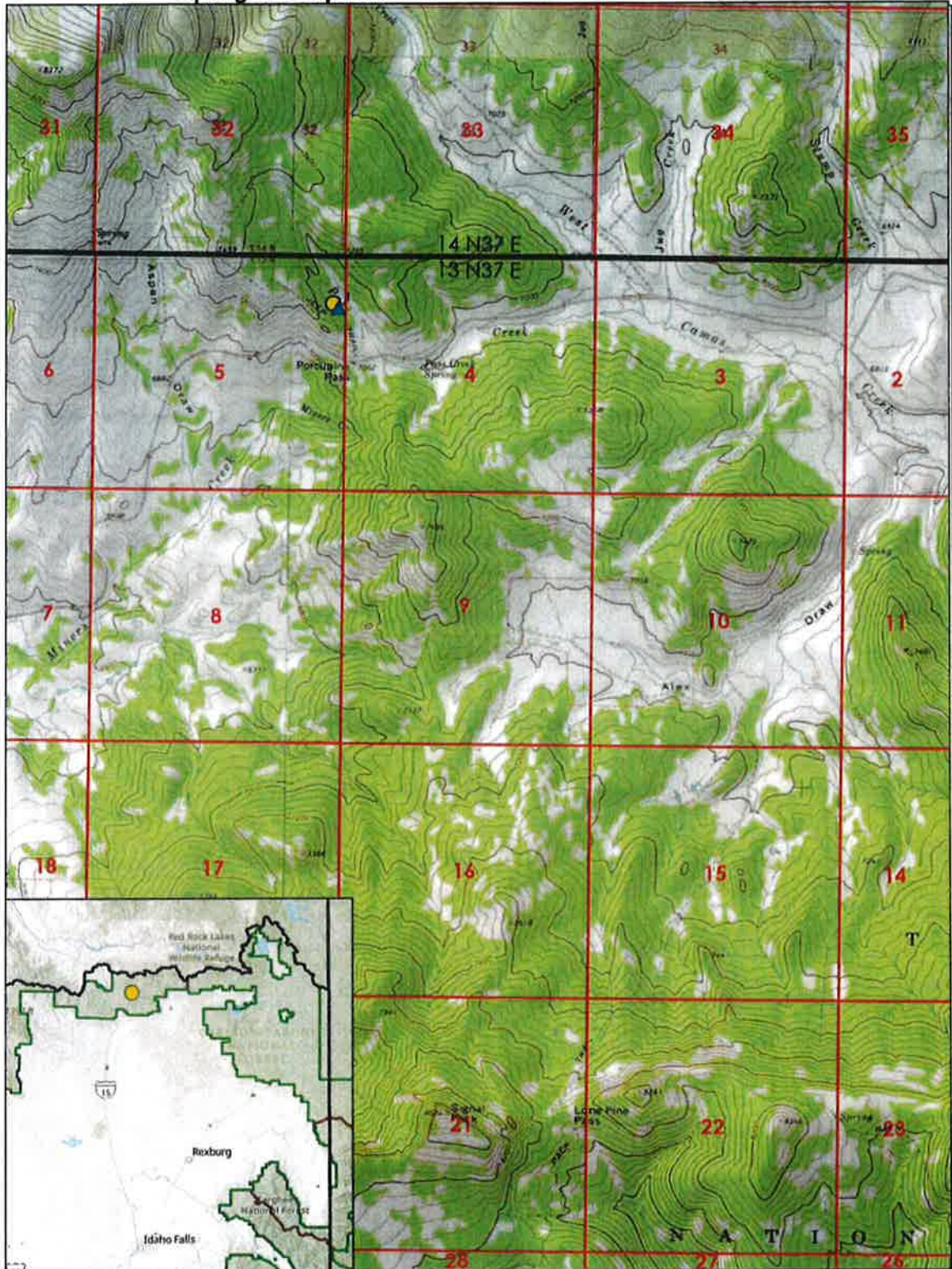
 Prepared by: Caribou-Tongue National Forest
 Keno Falls, Idaho
 Produced 12/2024 By: Taine Gader
 Projection UTM 12N NAD83

File: T:\FS\NFS\Caribou-Tongue\Program\2500\Watershed\A\April\G-5\Tgarden\Demo1\Demo1.apr



Forest Service
U.S. DEPARTMENT OF AGRICULTURE

Spring Development 1 in Pass Creek



Legend

- | | |
|---------------------------|------------|
| C-T Administrative Forest | Statelines |
| Township & Range | POU |
| Section | POD |



0 0.25 0.5 1 Miles

1:24,000

UTM Zone 12N
NAD83

Prepared by: Caribou-Targhee National Forest
Idaho Falls, Idaho
Produced: 2/20/2024 By: Tanner Gardner
Projection: UTM 12N, NAD83
File: T:\FS\14\SCaribouTarghee\Program\2500\Watershed\AirMgmt\CIST\Gardner\Demo\1.apr

**LIMITED AGENCY AGREEMENT FOR THE PURPOSES OF ESTABLISHING AND
MAINTAINING STOCKWATER RIGHTS ON NATIONAL FOREST GRAZING
ALLOTMENTS IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO**

The U.S. Forest Service, Department of Agriculture, ("Forest Service") and **Nick and Jackie Hillman** ("Permittee," and together with the Forest Service the "Parties"), in consideration of the mutual acknowledgments and agreements below, and for the benefit of the Parties and the National Forest System ("NFS"), enter into this Limited Agency Agreement for the purposes of establishing and maintaining stockwater rights to use water diverted from sources that are within grazing allotments located on NFS lands in accordance with the Laws of the State of Idaho ("Agreement").

ACKNOWLEDGEMENTS

The Parties acknowledge the following:

1. The significant role of the livestock industry in the settlement, history, and culture of the State of Idaho;
2. The importance of stockwater rights to the livestock industry in the State of Idaho, to the Forest Service grazing program, to the Permittee's livestock operation, and to the association of water with NFS lands;
3. On March 24, 2020, Idaho Governor Brad Little signed into law Idaho House Bill 592 ("HB 592") with an effective date of July 1, 2020;
4. HB 592 amended state law to remove limitations on the Forest Service and permittees entering into agency agreements to exercise Forest Service stockwater rights on National Forest grazing allotments; and
5. Current or future grazing authorization is not impacted or restricted in any way by this Agreement.

AGREEMENTS

The Forest Service and the Permittee agree as follows:

1. The Parties wish to continue utilizing state-based stockwater rights obtained by the United States located on the grazing allotments listed in Exhibit A so that the use of water authorized under those rights for livestock watering, and of any subsequent stockwater rights obtained in accordance with State law, can be used by livestock owned by the Permittee for the term of the current federal grazing permit and any subsequent renewal or reissuance thereof by the Forest Service; and
2. The Parties agree that the availability of water on the listed grazing allotments is critical for the grazing management of the allotments, and when domestic livestock owned by the Permittee and located on the listed grazing allotments make use of water by drinking from places, or sources located on NFS lands, that such use will be deemed beneficial under Idaho state law, and is made by the Permittee acting as a limited agent of the United States for the purposes of establishing and maintaining stockwater rights for the United States within grazing allotments located on NFS lands, and for no other purposes.

GENERAL TERMS

1. This Agreement does not convey any right, title, or interest in any lands or resources owned by the United States. Nothing in this Agreement shall prevent the Forest Service from administering the use and occupancy of NFS land for livestock grazing, construction and maintenance of range improvements in accordance with applicable laws and regulations, nor does it extend the statutory and regulatory authority of the Forest Service beyond regulations of the use and occupancy of NFS land.

2. The Parties expressly agree that the mutual acknowledgements and agreements contained in this Agreement are supported by good and adequate consideration including, but not limited to, past and continuing use of water in accordance with the stockwater rights, held by the Forest Service, together with the construction and maintenance of associated range improvements.

3. This Agreement shall remain in effect throughout the term of the existing grazing authorization, new authorizations, and any renewals of grazing authorizations. This Agreement terminates only upon: (a) the expiration, termination, or revocation of the current grazing permit(s) held by the Permittee that is not renewed; or (b) upon 90-day written notice by either Party to the other of a desire to terminate the Agreement.

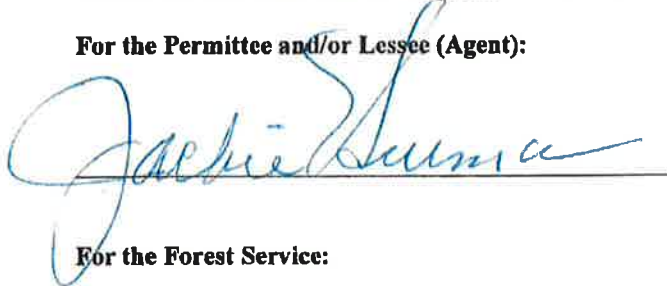
4. The terms of this Agreement may not be modified without the written consent of the Parties. If any paragraph or portion of this Agreement is deemed unenforceable, the remainder of this Agreement shall remain in full force and effect.

5. Subject to the termination clause above, the Parties agree to act in good faith and with fair dealings to fulfill, and not impede, the intent of this Agreement.

6. This Agreement shall become effective on the date of the last signature of the Parties thereafter.

7. The signators to this Agreement acknowledge that they (a) have read this entire document; (b) fully understand and agree with all the terms of this Agreement; (c) have knowingly, voluntarily, and in good faith entered into this Agreement; and (d) have the explicit authorization to execute and bind their respective entities or selves by this Agreement.

For the Permittee and/or Lessee (Agent):



7-11-22
Date

For the Forest Service:

 District Ranger
(Title of Authorized Officer)

7/12/22
Date

_____(Office)

Exhibit A

The following Forest Service Allotments on the Caribou-Targhee National Forest are permitted to Nick or Jackie Hillman.

West Camas C&H

**LIMITED AGENCY AGREEMENT FOR THE PURPOSES OF ESTABLISHING AND
MAINTAINING STOCKWATER RIGHTS ON NATIONAL FOREST GRAZING
ALLOTMENTS IN ACCORDANCE WITH THE LAWS OF THE STATE OF IDAHO**

The U.S Forest Service, Department of Agriculture, ("Forest Service") and Lundgaard LLC

("Permittee," and together with the Forest Service the "Parties"), in consideration of the mutual acknowledgments and agreements below, and for the benefit of the Parties and the National Forest System ("NFS"), enter into this Limited Agency Agreement for the purposes of establishing and maintaining stockwater rights to use water diverted from sources that are within grazing allotments located on NFS lands in accordance with the Laws of the State of Idaho ("Agreement").

ACKNOWLEDGEMENTS

The Parties acknowledge the following:

1. The significant role of the livestock industry in the settlement, history, and culture of the State of Idaho;
2. The importance of stockwater rights to the livestock industry in the State of Idaho, to the Forest Service grazing program, to the Permittee's livestock operation, and to the association of water with NFS lands;
3. On March 24, 2020, Idaho Governor Brad Little signed into law Idaho House Bill 592 ("HB 592") with an effective date of July 1, 2020;
4. HB 592 amended state law to remove limitations on the Forest Service and permittees entering into agency agreements to exercise Forest Service stockwater rights on National Forest grazing allotments; and
5. Current or future grazing authorization is not impacted or restricted in any way by this Agreement.

AGREEMENTS

The Forest Service and the Permittee agree as follows:

1. The Parties wish to continue utilizing state-based stockwater rights obtained by the United States located on the grazing allotments listed in Exhibit A so that the use of water authorized under those rights for livestock watering, and of any subsequent stockwater rights obtained in accordance with State law, can be used by livestock owned by the Permittee for the term of the current federal grazing permit and any subsequent renewal or reissuance thereof by the Forest Service; and
2. The Parties agree that the availability of water on the listed grazing allotments is critical for the grazing management of the allotments, and when domestic livestock owned by the Permittee and located on the listed grazing allotments make use of water by drinking from places, or sources located on NFS lands, that such use will be deemed beneficial under Idaho state law, and is made by the Permittee acting as a limited agent of the United States for the purposes of establishing and maintaining stockwater rights for the United States within grazing allotments located on NFS lands, and for no other purposes.

GENERAL TERMS

1. This Agreement does not convey any right, title, or interest in any lands or resources owned by the United States. Nothing in this Agreement shall prevent the Forest Service from administering the use and occupancy of NFS land for livestock grazing, construction and maintenance of range improvements in accordance with applicable laws and regulations, nor does it extend the statutory and regulatory authority of the Forest Service beyond regulations of the use and occupancy of NFS land.

2. The Parties expressly agree that the mutual acknowledgements and agreements contained in this Agreement are supported by good and adequate consideration including, but not limited to, past and continuing use of water in accordance with the stockwater rights, held by the Forest Service, together with the construction and maintenance of associated range improvements.

3. This Agreement shall remain in effect throughout the term of the existing grazing authorization, new authorizations, and any renewals of grazing authorizations. This Agreement terminates only upon: (a) the expiration, termination, or revocation of the current grazing permit(s) held by the Permittee that is not renewed; or (b) upon 90-day written notice by either Party to the other of a desire to terminate the Agreement.

4. The terms of this Agreement may not be modified without the written consent of the Parties. If any paragraph or portion of this Agreement is deemed unenforceable, the remainder of this Agreement shall remain in full force and effect.

5. Subject to the termination clause above, the Parties agree to act in good faith and with fair dealings to fulfill, and not impede, the intent of this Agreement.

6. This Agreement shall become effective on the date of the last signature of the Parties thereafter.

7. The signators to this Agreement acknowledge that they (a) have read this entire document; (b) fully understand and agree with all the terms of this Agreement; (c) have knowingly, voluntarily, and in good faith entered into this Agreement; and (d) have the explicit authorization to execute and bind their respective entities or selves by this Agreement.

For the Permittee and/or Lessee (Agent):



June 30 2023
Date

For the Forest Service:



(Title of Authorized Officer)

1/17/2023
Date

(Office)

Exhibit A

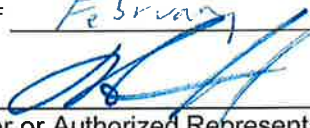
The following Forest Service Allotments on the Caribou-Targhee National
Forest are permitted to Lundgaard LLC.

West Camas C&H

I hereby assert the following:

- a) Diversion is from a surface water source to which the livestock would otherwise have access. The land where the watering tanks or troughs will be located is land from which the livestock had access to the source of water from which diversion is being made.
- b) The diversion of water out of the stream as described in this notice is for watering livestock and will not injure other water rights.
- c) I will not alter the bed and banks of the source as the term is defined in section 42-3802, Idaho Code. I understand that I may place an inlet conduit into the source in a manner that does not require excavation or obstruction of the stream channel, unless the director of the department of water resources approves a stream channel alteration permit for additional work.
- d) I understand that upon determination of interference with other water rights, the Director may order curtailment of diversion or use of water under this notice or may require the diversion and delivery system to be modified to prevent injury.
- e) I will not divert more than 13,000 gallons per day for livestock watering from this diversion, and I will not use more than one point of diversion under this notice.
- f) I am authorized to make the changes described in this notice and that if the notice involves a federal grazing allotment, the permittee consents to the changes described in this notice.
- g) I understand that any willful misrepresentation on this notice will void any right to divert water for livestock under this notice.

Dated this 13th day of February, 2024


Right Holder or Authorized Representative

FOR DEPARTMENT USE

Received by _____ Date _____ Preliminary check by _____
Fee: \$ 25.- Received by JB Receipt No. E050670 Date 2/25/2025
Water District No. _____ Entered into data base _____ By _____
Receipt total \$50.- / \$25.- for this app.



IDAHO DEPARTMENT OF
WATER RESOURCES

Eastern Region • 900 N Skyline Drive, Suite A • Idaho Falls, ID 83402-1718

Phone: 208-525-7161 • Fax: 208-525-7177 • Email: easterninfo@idwr.idaho.gov • Web: idwr.idaho.gov

Governor Brad Little

Director Mathew Weaver

February 28, 2025

US DEPT OF AGRICULTURE
FOREST SERVICE
TARGHEE NATIONAL FOREST
1405 HOLLIPARK DR
IDAHO FALLS ID 83401-2100

RE: Water Right Nos. 31-12555 and 31-12556
Notice of Diversion for Instream Stockwater Use

Dear Water Right Holder(s):

The Department of Water Resources acknowledges receipt of the water right notice you submitted under Section 42-113(3), Idaho Code. Please refer to the above referenced number in all future correspondence regarding this notice.

The filing of the notice does not confirm the validity of the water right. It will serve to record and preserve the information regarding the notice.

Please note that the diversion described in your notice may occur only if the following conditions are met.

- The water is diverted from a surface water source to a trough or tank through an enclosed water delivery system.
- The water delivery system is equipped with an automatic shutoff or flow control mechanism or includes a means for returning unused water to the surface water source through an enclosed delivery system, and the system is designed and constructed to allow the rate of diversion to be measured.
- The diversion is from a surface water source to which the livestock would otherwise have access and the watering tank or trough is located on land from which the livestock would have access to the surface water source from which the diversion is made.
- The diversion of water out of the stream in this manner does not injure other water rights.
- The use of the water diverted is for watering livestock.
- The bed and banks of the source shall not be altered as that term is defined in section 42-3802, Idaho Code, except that an inlet conduit may be placed into the source in a manner that does not require excavation or obstruction of the stream channel, unless additional

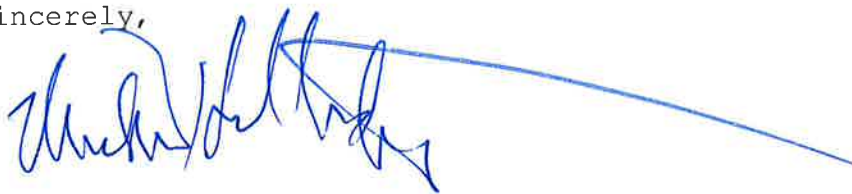
work is approved by the Director of the Department of Water Resources.

- The amount of water diverted for watering of livestock shall not exceed thirteen thousand (13,000) gallons per day.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

We are enclosing a copy of the notice for your records. Please feel free to contact this office if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Holliday", with a long horizontal line extending to the right.

Michael Holliday
Water Rights Supervisor

Enclosure

2/27/2025

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	US DEPT OF AGRICULTURE FOREST SERVICE CARIBOU TARGHEE NATIONAL FOREST 1405 HOLLIPARK DR IDAHO FALLS, ID 83401-2100 (208) 524-7500

Status: Active

Tributary SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	06/01	10/31	0.020 CFS	
	Total Diversion		0.020 CFS	

Source and Point(s) of Diversion:
 SPRING SENE Sec. 5, Twp 13N, Rge 37E, CLARK County

Place Of Use:
STOCKWATER within CLARK County
T13N R37E S5 SENE

1. 107 This notice was filed in accordance with Idaho Code § 42-113(3). Diversion and use of water in accordance with this notice shall not exceed 13,000 gallons per day for stockwater use. The water delivery system established in accordance with this notice shall be fully enclosed and shall be equipped with an automatic shutoff valve or a mechanism for returning unused water to the source through an enclosed system. The water delivery system shall be designed to facilitate measurement of the rate of flow through the system.

State or Federal: S
Water District Number: 31
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

2/27/2025

Water Right 31-12556

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	US DEPT OF AGRICULTURE FOREST SERVICE CARIBOU TARGHEE NATIONAL FOREST 1405 HOLLIPARK DR IDAHO FALLS, ID 83401-2100 (208) 524-7500

Priority Date: 5/23/1905
Basis: Statutory Claim
Status: Active

<u>Source</u>	<u>Tributary</u>
SPRING	SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	06/01	10/31	0.020 CFS	
	<u>Total Diversion</u>		0.020 CFS	

<u>Source and Point(s) of Diversion:</u>		
SPRING	NENW	Sec. 4, Twp 13N, Rge 37E, CLARK County

Place Of Use:
STOCKWATER within CLARK County
T13N R37E S4 NENW

Conditions of Approval:

- | | | |
|----|-----|---|
| 1. | 107 | This notice was filed in accordance with Idaho Code § 42-113(3). Diversion and use of water in accordance with this notice shall not exceed 13,000 gallons per day for stockwater use. The water delivery system established in accordance with this notice shall be fully enclosed and shall be equipped with an automatic shutoff valve or a mechanism for returning unused water to the source through an enclosed system. The water delivery system shall be designed to facilitate measurement of the rate of flow through the system. |
|----|-----|---|

Dates and Other Information:
State or Federal: S
Water District Number: 31
Mitigation Plan: False

Henman, Christina

From: Henman, Christina
Sent: Friday, February 28, 2025 1:55 PM
To: Fred Price (fwprice@blm.gov); 'Clark, Trevlyn - FS, UT'; 'Larsen, Tyler - FS, UT'
Subject: Notice of Diversion for Instream Stockwater Use: 31-12555 & 31-12556
Attachments: 31-12556 Notice of Diversion as an Alternative to Instream Stockwater Use.pdf;
31-12555 Notice of Diversion as an Alternative to Instream Stockwater Use.pdf

TREVLYN CLARK
USDA FOREST SERVICE

FRED PRICE
USDI, BLM, IDAHO STATE OFFICE

RE: Notice of Diversion for Instream Stockwater Use

Dear Interested Party:

The Department of Water Resources has received the enclosed Notice of Diversion for Instream Stockwater, submitted under Section 42-113(3), Idaho Code. Please refer to the above referenced number in all future correspondence regarding this notice. This notice will be retained in our files and will be available for reference at any time.

If you have questions, please call the department at (208) 525-7161

Thank You,



Christina Henman
Administrative Assistant
IDWR, Eastern Region
900 N Skyline Ste. A
Idaho Falls, ID 83402
Phone: (208) 525-7161