



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815-7763
Phone: (208) 762-2800 • Fax: (208) 762-2819 • Website: www.idwr.idaho.gov

BRAD LITTLE
Governor

GARY SPACKMAN
Director

June 16, 2021

KEVIN MUIR
PO BOX 1346
FREEDOM CA 95019

SUBJECT: Palouse River Basin Adjudication Claim (PRBA) No. 87-11563

Dear Mr. Muir,

The Idaho Department of Water Resources (IDWR) has received your Notice of Error Reply. After reviewing the portions of the proposed recommendation with which you disagree, below are comments to address your disagreements and changes that can be made.

You state that the purpose of use should include irrigation for at least 1 acre. The claim received by IDWR does not include irrigation, so the use cannot be recommended unless an Amended Claim is received that claims irrigation use. The claim is for Domestic use for the home, which includes up to ½ lawn/garden irrigation. However, IDWR will still be unable to recommend irrigation for more than that because it is in violation of the Mandatory Permit Statute for ground water. Idaho Code 42-229 requires a permit to establish a water right for uses developed from ground water as of March 25, 1963 (except for domestic purposes as defined by section 42-111, Idaho Code). For your convenience, I enclosed an Application for Permit form and instructions.

In correlation with the purpose of use mentioned above, you had concerns with the map of the place of use. IDWR can change the place of use shape to include both the home and shop. However, the shape cannot include the entire property for irrigation use because of the comments above.

Further, you state that you want the domestic use for 1 home and complete granny unit/cottage in the shop building. Based on our previous phone conversations, I am able to recommend that use with a 2019 priority date and the shop building as an explanatory condition. The explanatory condition will not be on the surface of the water right, but IDWR's internal database will show this use. For the shop building to be included on the surface of the water right as a Purpose of Use, an Amended Claim is required. Enclosed with this letter is an Amended Claim. Everything on the Amended Claim is the same as the original claim except under #8, Non-irrigation Uses, where the shop building is included along with the home. If you want to amend the claim, you must review the document, make any additional changes, sign and date the document, and mail it back. If you do not amend the claim, your recommended water right will look like the preliminary recommendation that is also enclosed.

Lastly, the Notice of Error Reply includes an issue with the Place of Use. You state that it should include Government Lots 2 and 3. While your property does include Lots 2 and 3, the domestic use is only occurring on Lot 3. For this reason, IDWR is only able to recommend it for Lot 3.

If you decide to amend the claim to include the shop building, mail the completed Amended Notice of Claim back to my attention at 7600 N. Mineral Drive Suite 100, Coeur d'Alene ID 83815. Otherwise, the enclosed preliminary recommended water right will be submitted. If you have any questions regarding the Application for Permit form, please contact Luke Bates. His telephone number is (208) 762-2817 and his email is luke.bates@idwr.idaho.gov. If you have any questions regarding your adjudication claim, feel free to contact me. My telephone number is (208) 762-2810 and my email is christopher.holmes@idwr.idaho.gov.

Sincerely,



Christopher Holmes
Water Resource Agent

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS**

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE PALOUSE RIVER BASIN WATER
SYSTEM

CIVIL CASE NUMBER: 59576

Ident. Number: 87-11563
Date Received: 8/26/2019
Receipt No: N035474
Claim Fee:
Received By: _____

AMENDED

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW
For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day**

1. Name of Claimant(s)

KEVIN MUIR
PO BOX 1346
FREEDOM CA 95019

Phone: (831) 251-2354

AND/OR

DENISE MUIR
PO BOX 1346
FREEDOM CA 95019

Phone: (831) 254-3020

2. Date of Priority: 11/6/2014

3. Source:
GROUND WATER

Trib. to:

4. Point of Diversion:

Township	Range	Section	¼ of ¼ of ¼	Lot	County	Type
40N	04W	3	NW NE	2	LATAH	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	1 /1	12/31	0.02		0

7. Total Quantity Appropriated is:

0.02 C.F.S. and/or 0 A.F.A.

8. Non-irrigation uses:

House and shop building

9. Place of use:

DOMESTIC within LATAH County

Township	Range	Section	¼	of	¼	Lot	Acres
40N	04W	3	NW		NE		

10. Do you own the property listed above as place of use? Yes

If your answer is no, describe in remarks below the authority you have to claim this water right.

11. Other Water Rights Used:

12. Remarks:

Priority Date Explanation:

13. Basis of Claim: Beneficial Use

14. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the PALOUSE River Basin Adjudication." (b.) I/We do ____ do not ____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

Date: _____

06/15/2021

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 87-11563

NAME AND ADDRESS: DENISE MUIR
PO BOX 1346
FREEDOM CA 95019

KEVIN MUIR
PO BOX 1346
FREEDOM CA 95019

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.020 CFS

The quantity of water under this right shall not exceed 13,000 gallons per day.

PRIORITY DATE: 12/31/2019

POINT OF DIVERSION: T40N R04W S3 NWNE Lot 2 Within LATAH County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

DOMESTIC

1 /1 12/31

0.020 CFS

Domestic use is for 1 home.

PLACE OF USE:

DOMESTIC in LATAH County

T40N R04W S03 Lot 3 NENW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

The quantity of water decreed for this water right is not a determination of historical beneficial use.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Idaho Code § 42-1412(6).

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Parcel No. RP40N04W030682

Domestic use includes primary residence and shophouse.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. _____

1. Name of applicant(s) _____ Phone _____
Name connector (check one): ☐ and ☐ or ☐ and/or

Mailing address _____ City _____

State _____ ZIP _____ Email _____

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 _____ which is a tributary of _____

4. Location of point(s) of diversion:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #

5. Water will be used for the following purposes:

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

6. Total quantity to be appropriated is (a) _____ 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. _____

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 for Construction or Enlargement of a New or Existing Dam](#). 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. _____

For Department Use

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee \$ _____ Received by _____ Receipt No. _____ Date _____

8. Description of proposed uses (if irrigation only, go to item 9):
- Hydropower; show total feet of head and proposed capacity in kW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; must complete and attach the [Municipal Water Right Application Checklist](#).
 - Domestic; show number of households _____
 - Other; describe fully. _____
9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - 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	

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? _____
11. a. Who owns the property at the point of diversion? _____
- b. Who owns the land to be irrigated or place of use? _____
- 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. _____
13. Time required for completion of works and application of water to proposed beneficial use is ____ 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

Signature of Applicant

Print Name (and title, if applicable)

Print Name (and title, if applicable)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

INSTRUCTIONS FOR FILING AN APPLICATION FOR PERMIT

All waters of Idaho, when flowing in their natural rivers, springs, lakes, and aquifers, are the property of the state. A right to divert and use Idaho water can be established only by obtaining a permit from the Department of Water Resources. To apply for a permit, prospective water users must complete the "Application for Permit" form and submit it to the Department of Water Resources with the required filing fee. The Department of Water Resources will review and process the application in accordance with applicable statutes and rules and either issue a permit or deny the application. The only water uses authorized to begin without a permit are: 1) use of ground water for single ownership homes, campgrounds, or stock watering up to 13,000 gallons per day, 2) other uses of ground water up to 2,500 gallons of water per day, 3) stockwater use where the animals drink directly from the water source, 4) extinguishing an existing fire, and 5) forest practices as defined in Idaho Code § 38-1303(1) and forest dust abatement up to 0.2 acre-feet per day.

COMPLETE THE APPLICATION FORM AS FOLLOWS:

1. Print the full name, mailing address, telephone number, and email address of each applicant. If more than one applicant, select the name connector.
2. Enter the full name, mailing address, telephone number, and email address of the applicant's representative, if any.
3. Identify the source of water supply and the major stream to which it is tributary.

EXAMPLES:

Source of water supply	<u>Trail Creek</u>	which is tributary to	<u>Snake River</u>
Source of water supply	<u>unnamed stream</u>	which is tributary to	<u>Grimes Creek</u>
Source of water supply	<u>ground water</u>	which is tributary to	<u>n/a</u>

4. Locate the point of diversion within each 40-acre tract and/or the U.S. Government Lot of the Public Land Survey System. Spring sources should be described to the nearest 10-acre tract. Identify the county where the point of diversion is located.

EXAMPLE:

Twp	Rge	Sec	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
10S	14E	14	4	SW	NE	NW	Twin Falls	ground water	D0077250

Note: When both the government lot and the 10-acre or 40-acre tract are shown, the government lot is considered to be the principal legal description.

5. Estimate the rate of diversion in cubic feet per second (cfs) or the amount of storage in acre-feet (af) to be used for each purpose shown. Describe the intended use of the water and state the annual beginning and ending dates for the diversion of water. The maximum rate needed for each purpose should be requested. For instance, the normal maximum rate of diversion for irrigation is 0.02 cubic feet per second per acre. The customary diversion rate for watering range cattle is 0.00022 cubic feet per second per animal, rounded to the nearest hundredth of a cubic foot per second.

EXAMPLES:

Amount 6.4 for Irrigation purposes from Mar. 15 to Nov. 15 (both dates inclusive)
cubic feet per second

Amount 100 for Irrigation Storage purposes from Jan. 1 to Dec. 31 (both dates inclusive)
acre-feet per year

Amount 6.4 for Fish Propagation purposes from Jan. 1 to Dec. 31 (both dates inclusive)
cubic feet per second

Note: If the proposed use is fish propagation, heating, cooling, or power, or if the proposed flow rate exceeds 5.0 cfs, or if proposed irrigation exceeds 200 acres, additional information will be required. Contact a department office to determine the requirements.

6. State the total rate of diversion after accumulating flows for each use. The amount entered in Item #6 may be less than the total of the amounts listed in Item #5. However, it must be at least equal to the largest amount in line Item #5. The acre-foot amount need not be shown unless water will be stored.

EXAMPLE:

Total quantity to be appropriated is (a) 64 cubic feet per second (cfs) and/or (b) 100 acre-feet per year (af).

Note: If the project proposes storage of water and also a direct flow diversion, both the storage and direct flow components can be shown on the same form.

7. a. Describe the complete diversion system. List the pump, motor, ditch, pipeline or diversion structure sizes.
b. If applying to store water, complete this information. Depending on your proposal, a separate dam construction permit may be required. Please indicate "yes" or "no" in the space provided.
c. & d. If applying to divert water from a well, complete this information. A separate drilling permit will also be required for a new or reconstructed well.
e. If applying to develop a new use from an existing well, complete this information.
8. a. If applying for power generation, estimate both total head in feet and the anticipated installed power generation capacity in kilowatts. Include an affidavit of residency. [Form No. 205/206](#) may be used.
b. If stockwater has been listed under Item #5, state the total number of each kind of livestock, i.e. horses, beef cattle, dairy cattle, etc.
c. If municipal water use is listed under Item #5, complete the [Municipal Water Right Application Checklist](#) and attach it to your application.
d. If domestic use is listed under Item #5, state the maximum number of households to be served. If more than one domestic unit is described and water is used for irrigation, identify acres that will be irrigated. List the acres under the irrigation use.
e. Describe any other uses not fully explained above.

EXAMPLE: If for industrial, fish propagation, etc., give details to support the amount of water requested.

9. Locate all water uses by writing in the townships, ranges and sections. Identify the uses within each 40-acre tract with the symbols shown on the table below. The number of acres to be irrigated in each 40-acre tract must be shown.

EXAMPLE:

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10S	14E	21	40		4	4					4			40		40	40		172
		21	S		S	S	D				S			S					

Use Symbols:

Aesthetic – J
Domestic – D
Ground Water Recharge – E
Mining – X
Recreation – R

Commercial – C
Fire Protection – F
Heating – G
Municipal – M
Stockwater – S

Cooling – L
Fish Propagation – H
Industrial – I
Power – P
Wildlife – W

*Domestic may describe uses where the total use does not exceed 2,500 gal/day nor 0.04 cfs

10. Describe all other water rights used for the same purpose as sought in the application. If possible, identify the right with the number assigned by the Department of Water Resources.

11. a. Identify the landowner of record even if the land is being purchased, rented, or leased.
b. Follow the same instructions as above in Item #11a.
c. Explain the contract, lease, desert land entry, or other arrangement by which land not owned by applicant will be developed. If any federal lands must be accessed as part of the development, include with the application evidence that an application has been filed with the federal government for a right-of-way or special use permit. If developing water from a pond of less than five acres in surface area or from a spring wholly contained within a single land ownership and not flowing therefrom, submit evidence that the land owner consents to the proposed development.
12. The narrative should provide a detailed word-picture of your proposal. It should also relate any additional pertinent information that will be useful to the Department. For example, list unique features such as treatment of industrial waste, name of well drillers, number of raceways, or total weight of fish anticipated to be grown for a fish propagation filing. Attach additional pages, if necessary, to achieve sufficient detail.
13. Estimate the time required for completion of work and application of water to the proposed use. The minimum term of a permit is one year. A development period of up to five years may be requested. The Department will only grant, however, a development period equal to the time necessary to complete the project with due diligence.
14. The map must locate the point of diversion from the source of water and the location of the lands to be irrigated or the place where the water will be used. The map must also show townships, ranges, sections, and government lots. Important landmarks such as rivers, streams, roads and highways should be shown on the map. If the place of use is located in a recorded subdivision, submit a copy of that portion of the subdivision plat which contains the place of use lot. The map scale shall not be less than two (2) inches equal to one (1) mile. A copy of the U.S. Geological Survey map which identifies the point of diversion and place of use may be submitted for the map under Item #14. See [example map](#).

SIGNATURE:

Sign the application exactly as the name appears in Item #1, unless the applicant is a corporation, municipality, partnership or other entity.

An application in more than one name must be signed by each applicant unless the names are joined "and/or".

If the applicant is a corporation, municipality, or partnership, the person signing the application must be an officer or elected official of the corporation or municipality and must show the position below the signature. The applicant must submit a list of corporate or partnership officers, directors and partners and corresponding addresses to the Department with the application.

If someone other than the applicant or a company officer signs the application, evidence must be included with the application that the person signing has authority to sign and holds a current "Power of Attorney" authorizing the action. (Power of Attorney forms are available from the Department upon request.)

Measurement Units

One cubic foot per second (cfs) = 448.8 gallons per minute or 50 miner's inches (Idaho)

One cubic foot per second flowing 24 hours = 1.9835 acre-feet

One acre-foot = the volume necessary to cover one acre to a depth of one foot (43,560 cubic feet)

One miner's inch = a continuous flow equal to 1/50 cubic feet per second or 0.02 cubic feet per second

APPLICATION FEE SCHEDULE (PER [IDAHO CODE § 42-221](#))

The application fee is based on the proposed storage volume (acre-feet per year or AFY) or on the proposed diversion rate (cubic feet per second or CFS). For applications proposing both a diversion rate and a storage volume, determine each fee separately and pay the greater of the two.

Application fees (CFS = cubic feet per second; AF = acre-feet)

Flow Rate (CFS)	Storage Volume (AF)	Fee	Flow Rate (CFS)	Storage Volume (AF)	Fee
0.00 – 0.20	0.0 – 20.0	\$100.00	11.01 – 12.00	1,100.1 – 1,200.0	\$690.00
0.21 – 1.00	20.1 – 100.0	\$250.00	12.01 – 13.00	1,200.1 – 1,300.0	\$730.00
1.01 – 2.00	100.1 – 200.0	\$290.00	13.01 – 14.00	1,300.1 – 1,400.0	\$770.00
2.01 – 3.00	200.1 – 300.0	\$330.00	14.01 – 15.00	1,400.1 – 1,500.0	\$810.00
3.01 – 4.00	300.1 – 400.0	\$370.00	15.01 – 16.00	1,500.1 – 1,600.0	\$850.00
4.01 – 5.00	400.1 – 500.0	\$410.00	16.01 – 17.00	1,600.1 – 1,700.0	\$890.00
5.01 – 6.00	500.1 – 600.0	\$450.00	17.01 – 18.00	1,700.1 – 1,800.0	\$930.00
6.01 – 7.00	600.1 – 700.0	\$490.00	18.01 – 19.00	1,800.1 – 1,900.0	\$970.00
7.01 – 8.00	700.1 – 800.0	\$530.00	19.01 – 20.00	1,900.1 – 2,000.0	\$1,010.00
8.01 – 9.00	800.1 – 900.0	\$570.00	20.01 – 100.00	2,000.1 – 10,000.0	*
9.01 – 10.00	900.1 – 1,000.0	\$610.00	101.01 – 500.00	10,000.1 – 50,000.0	**
10.01 – 11.00	1,000.1 – 1,100.0	\$650.00	500.01 & over	50,000.1 & over	***

* \$1,010.00 plus \$20.00 for each additional 1.0 cfs or part thereof or 100 acre-feet or part thereof over the first 20 cfs or 2,000 acre-feet.

** \$2,610.00 plus \$10.00 for each additional 1.0 cfs or part thereof or 100 acre-feet or part thereof over the first 100 cfs or 10,000 acre-feet.

*** \$6,610.00 plus \$2.00 for each additional 1.0 cfs or part thereof or 100 acre-feet or part thereof over the first 500.0 cfs or 50,000 acre-feet.

Your application and fee may be submitted to one of the following offices:

Northern Region

Idaho Dept. of Water Resources
7600 N Mineral Dr, Suite 100
Coeur d'Alene, ID 83815-7763 Tel. – 762-2800
FAX – 762-2819

Eastern Region

Idaho Dept. of Water Resources
900 N Skyline Dr, Suite A
Idaho Falls, ID 83402-1718 Tel. – 525-7161
FAX – 525-7177

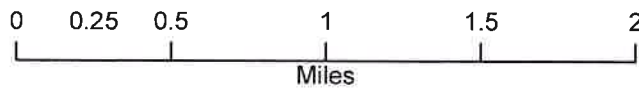
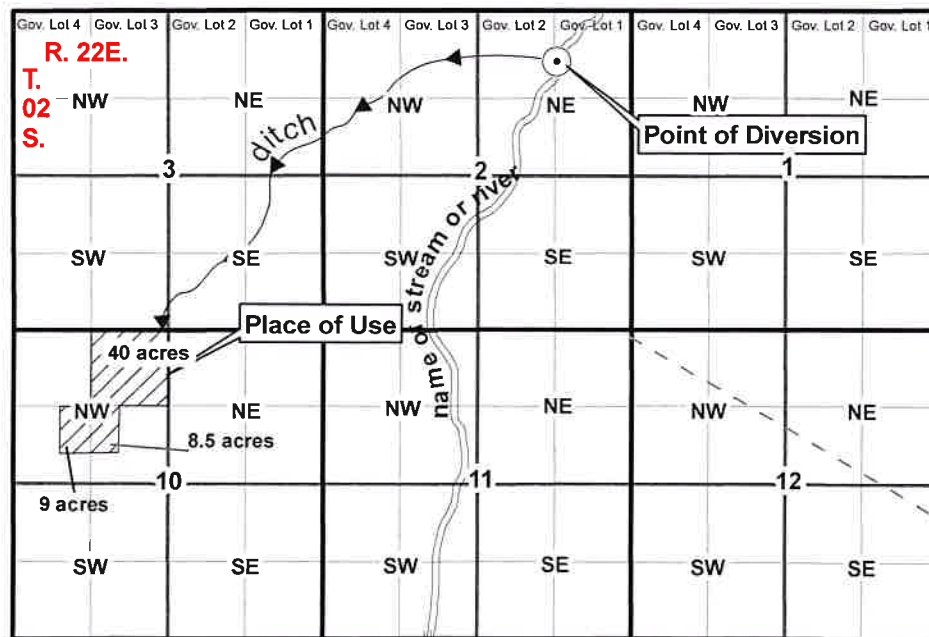
Southern Region

Idaho Dept. of Water Resources
650 Addison Ave W, Suite 500
Twin Falls, ID 83301-5858 Tel. – 736-3033
FAX – 736-3037

Western Region

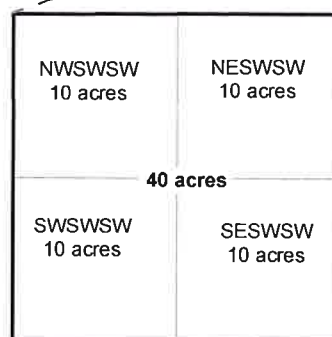
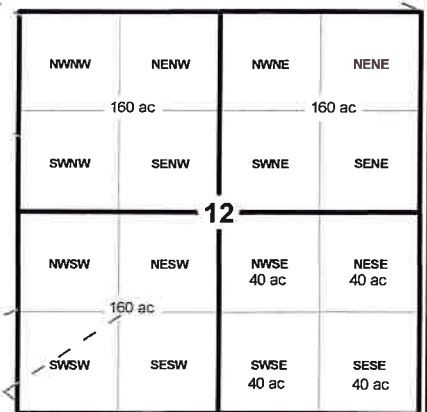
Idaho Dept. of Water Resources
2735 Airport Way
Boise, ID 83705-5082 Tel. – 334-2190
FAX – 334-2348

Water Diversion and Delivery System Map Example



Sample Symbols for map

- canals & ditches
- dams
- pipelines
- place of use
- point of diversion
- reservoirs, ponds
- springs
- streams, rivers
- other wells not part of system



Example Map