

State of Idaho
Department of Water Resources
Water Right License
Water Right No. 1-10572

Priority: May 07, 2009

Maximum Diversion Rate: 55.00 CFS
Maximum Diversion Volume: 6,455.6 AF

It is hereby certified that:

SOUTHWEST IRRIGATION DISTRICT
PO BOX 668
BURLEY ID 83318

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated February 17, 2009,, and has submitted Proof of Beneficial Use on June 19, 2015. An examination confirms water is diverted from:

Source : WASTE WATER

Tributary: SNAKE RIVER

<u>Beneficial Use</u>	<u>Period of Use</u>	<u>Rate of Diversion</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	55.00 CFS	6,455.6 AF

Location of Point(s) of Diversion

WASTE WATER L2 (SW¼ NE¼), Sec. 20, Twp 10S, Rge 22E, B.M. CASSIA County

Conditions of Approval

1. Right 45-14183 is also recorded as Right 01-10572 to facilitate regulation by Water District 01 to prevent injury to senior Snake River water right holders. The duplicate records represent a single diversion and use of water.
2. Place of use is within the boundary of Southwest Irrigation District service area pursuant to Section 43-323, Idaho Code.
3. The source of water diverted under this right is waste water and is subject to the right of the original appropriator, in good faith and in compliance with state laws governing changes in use and/or expansion of water rights, to cease wasting water, to change the place of use or manner of wasting it, or to recapture it.
4. 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 01. In addition, the watermaster of state water district 140, or its successor, shall be responsible for administering the requirement that this water right must be used in lieu of ground water rights in Water District 140.
5. 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.
6. Rights 01-10566, 01-10572 and 45-14183 when combined shall not exceed a total diversion rate of 55.0 cfs.
7. Rights 01-10566, 01-10572 and 45-14183 when combined for irrigation shall not exceed a total annual maximum diversion volume of 6455.6 af.
8. This right does not grant any right-of-way or easement across the land of another.
9. This right is limited to use on land with valid ground water irrigation right(s) and does not authorize irrigation of land not already irrigated with ground water. The water user shall not divert water under the appurtenant ground water irrigation right(s) when receiving water for irrigation under this right.

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10. The right holder shall not divert and use water under this right if the natural flow in the Snake River is not sufficient to fill senior rights diverting from the Snake River as determined by the Watermaster of Water District 01 unless injury to senior water right holders is mitigated by the delivery of storage water either from (a) the right holder's shares of contracted storage water or (b) storage water rented or leased according to the Water District 01 Rental Pool procedures. Option (b) may include storage water representing return flow credits accruing to Burley Irrigation District and provided on behalf of the right holder.
11. The boundary encompassing the place of use for this water right is described with a digital boundary as authorized by Idaho law. The data comprising the digital boundary are stored in the electronic document management system of the Department and are incorporated into this approval by this reference. A map depicting the place of use is attached to this approval document to illustrate the place of use described by the digital boundary.
12. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
13. Prior to diverting and using water pursuant to this right, the right holder shall identify the land to be irrigated with water diverted pursuant to this right by submitting a land list and a representative electronic shape file or by submitting a land list and a map sufficiently detailed to allow creation of an electronic shape file to be associated with this right in the geographic information system component of the water rights database maintained by the department. In addition, the right holder shall submit a list of ground water irrigation rights that will not be used when water is being delivered pursuant to this right. Before changing the land to be irrigated pursuant to this right, the right holder shall submit a new land list, representative electronic shape file or map, and list of ground water irrigation rights to the Department prior to the irrigation season in which the change will occur.
14. Noncompliance with any condition of this right 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.
15. The diversion and use of water described in Right 45-14183 (Right 01-10572) is subject to additional limitations set forth in an agreement with Burley Irrigation District, A & B Irrigation District, American Falls Reservoir District # 2, Milner Irrigation District, North Side Canal Company, Twin Falls Canal Company and the Southwest Irrigation District. The agreement is dated September 1, 2009. The Department is not a party to the agreement, which may be enforceable by a court of law.
16. The diversion and use of water described in water right 45-14183 (Right 01-10572) is subject to additional limitations in a separate agreement between Burley Irrigation District and Southwest Irrigation District. The agreement is dated May 13, 2009. The Department is not a party to the agreement, which may be enforceable by a court of law.

This license is issued pursuant to the provisions of Idaho Code § 42-219. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed this 30th day of November, 20 20



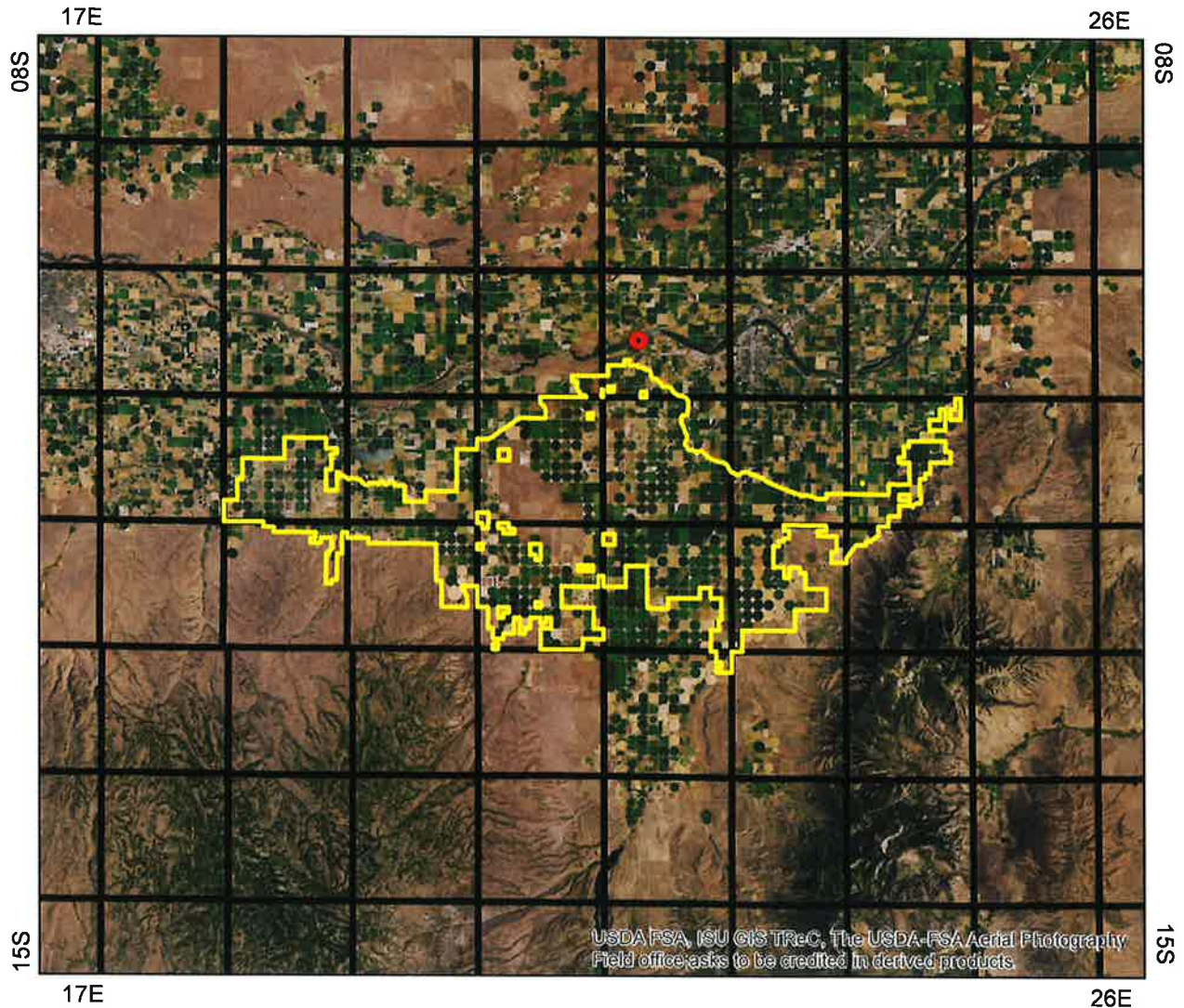
COREY SKINNER
Southern Regional Manager

Southwest Irrigation District

Attachment to Water Right License

01-10572

This map depicts the IRRIGATION 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.



- Point of Diversion
- Place Of Use Boundary
- Townships





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 ADDISON AVE W STE 500 • TWIN FALLS, ID 83301-5858

Phone: (208)736-3033 • Fax: (208)736-3037 • Website: www.idwr.idaho.gov

Brad Little
Governor

Gary Spackman
Director

December 2, 2020

SOUTHWEST IRRIGATION DISTRICT
PO BOX 668
BURLEY ID 83318

RE: License No(s). 1-10566, 1-10572, 45-14183

Issuance of License

Dear Water Right Holder(s):

The Department of Water Resources ("Department") has issued the enclosed Water Right License confirming that a water right has been established in accordance with your permit. Please be sure to thoroughly review all the conditions of approval listed on your license. The conditions may include ongoing requirements, such as maintenance of a measuring device or implementation of mitigation, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Also enclosed is a copy of the approved application for amendment for 1-10566.

The license is a PRELIMINARY ORDER issued by the Department 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.

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. Failure to report these changes could result in a \$100 late filing fee. Water right forms are available from any office of the Department or on the Department's website at 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)

CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2020, I served a true and correct copy of Water Right License No. 1-10566, 1-10572 and 45-14183 by U.S. Mail, postage prepaid, to the following:

SOUTHWEST IRRIGATION DISTRICT (Current Owner)
PO BOX 668
BURLEY ID 83318

WILLIAM A PARSONS (Attorney)
PARSONS SMITH STONE LOVELAND & SHIRLEY LLP
PO BOX 910
BURLEY ID 83318-0910

WATER DISTRICT #01
900 N SKYLINE DR STE A
IDAHO FALLS ID 83402

WATER DISTRICT #140
ADAM MC COY (Watermaster)
355 W 500 S
BURLEY ID 83318-5229

A handwritten signature in blue ink, reading "Denise Maline", is written over a horizontal line.

Denise Maline
Administrative Assistant 1

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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