

State of Idaho
Department of Water Resources
Permit to Appropriate Water
No. 71-11003

Priority: August 10, 2020

Maximum Diversion Rate: 0.04 CFS

This is to certify that

BITTON PROPERTIES
HC 64 BOX 9951
STANLEY ID 83278-9603

has applied for a permit to appropriate water from:

Source : GROUND WATER

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

Beneficial Use

IRRIGATION

Period of Use

05/01 to 10/31

Rate of Diversion

0.04 CFS

Location of Point(s) of Diversion

GROUND WATER SE¼ NE¼, Sec. 4, Twp 08N, Rge 14E, B.M. CUSTER County

Place of Use: IRRIGATION

Twp	Rng	Sec	NE				NW				SW				SE				No QQ	Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
08N	14E	4			1.0	1.0														2.0

Total Acres: 2.0

Conditions of Approval

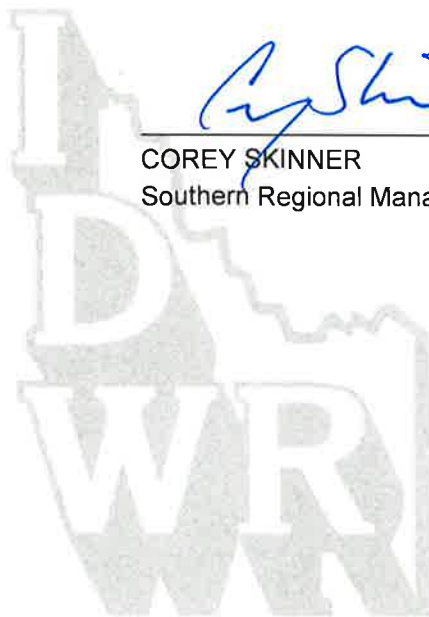
1. Proof of application of water to beneficial use shall be submitted on or before **October 01, 2023**.
2. Subject to all prior water rights.
3. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. #71.
4. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
5. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
6. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
7. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.

State of Idaho
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Permit to Appropriate Water
No. 71-11003

8. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.0 afa per acre at the field headgate for irrigation of the place of use.
9. Right holder shall comply with the drilling permit requirements of Idaho Code § 42-235 and applicable Well Construction Rules of the Department.

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

Signed this 13th day of October, 2020.



COREY SKINNER
Southern Regional Manager

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

71-11003

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.

14E



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

0 0.035 0.07 0.14 Miles





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

October 13, 2020

BITTON PROPERTIES
HC 64 BOX 9951
STANLEY ID 83278-9603

RE: Permit No. 71-11003

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 first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, 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.

Also, please note that permit holders are required to report any change of 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. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 736-3033.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Skinner". The signature is fluid and cursive, with the first name "Corey" being more prominent than the last name "Skinner".

Corey Skinner
Southern Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2020, I served a true and correct copy of Permit to Appropriate Water No. 71-11003 by U.S. Mail, postage prepaid, to the following:

BITTON PROPERTIES (Current Owner)
HC 64 BOX 9951
STANLEY ID 83278-9603

WATER DISTRICT #71
MORGAN V MILLER (Watermaster)
3594 HOTSPRINGS RD
CHALLIS ID 83226

WATER DISTRICT #170
CINDY YENTER
102 S WARPATH
SALMON ID 83467



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.



PROOF OF PUBLICATION The Challis Messenger

RECEIVED

SEP 14 2020

DEPT OF WATER RESOURCES
SOUTHERN REGION

State of Idaho
County of Custer

I, ~~Dawn Giannini~~, or Collins Crapo first being duly sworn, depose and say: That I am the ~~Classified Manager~~, or Processing Clerk employed by Adams Publishing Group of the Rockies LLC, publishers of The Challis Messenger, a newspaper of general circulation, published 1 day, Wednesday at Challis, Idaho.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said The Challis Messenger for 2, first publication having been made on 09/02/2020 last publication having been made on 09/09/2020, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

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

71-11003

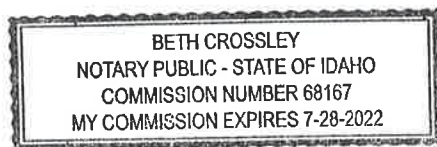
BITTON PROPERTIES
HC 64 BOX 9951
STANLEY, ID 83278-9603
Point of Diversion SENE S4
T08N R14E CUSTER County
Source GROUND WATER
Tributary
Use: IRRIGATION 05/01 to
10/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 08-10-2020
Place Of Use: IRRIGATION
T08N R14E S4 SWNE, SENE
Total Acres: 2

The application for permit proposes to divert 0.04 cfs ground water from a proposed new well for the irrigation of 2 acres. The proposed point of diversion and place of use are located approximately 5.5 miles east and 11.2 miles south of the Highway 21 & 75 intersection in Stanley. This application proposes the diversion and use of water from ground water tributary to the Salmon Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because the diversion rate of 0.04 cfs and 2.0 acres will be applied to the subordination amounts specified in the decree for the Wild & Scenic River listed above.

72-16986

UNITED STATES OF AMERICA ACTING THROUGH
USDI BUREAU OF LAND
MANAGEMENT
ATTN FRED PRICE
1387 S VINNELL WAY
BOISE, ID 83709
Point of Diversion NWNESE
S7 T12N R19E CUSTER
County Source SALMON RIVER
Tributary SNAKE RIVER
Use: IRRIGATION 04/01 to
10/31 0.05 CFS
Total Diversion: 0.05 CFS
Date Filed: 07-10-2020

Subscribed and sworn to before me, on this 10th day of September, 2020



Notary Public
My commission expires:

attached jurat

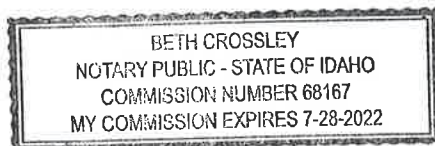
STATE OF IDAHO

ss.

COUNTY OF CUSTER

On this 10th day of September, 2020 before me, the undersigned, a Notary public for said state, personally appeared ~~Dawn Giannini~~ or Collins Crapo, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he/she/they executed the same,

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Notary Public for APG of the Rockies
Residing: Idaho Falls, Idaho
Commission expires:

✓ Dm 9-15-2020

over

Place Of Use: IRRIGATION
T12N R19E S7 L14(SWNE),
L14(SENW)
Total Acres: 2.5

✓ Application for permit proposes diversion of up to 0.054 cfs from the Salmon River at a point 6.3 miles south and 2.4 miles west of the intersection of State Highway 75 and U.S. Highway 93 south of Challis. Water will be used for 2.5 acres of irrigation at an adjacent recreation site. This application proposes the diversion and use of water from the Salmon River, a Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because it is a United States right.

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://idwr.idaho.gov/apps/ExtSearch/WR> Application Results. 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 **September 21, 2020**. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN,
Director

Published: 9/2, 9/9, 2020
(29103-12622)

✓ OK dm 9-15-2020

Maline, Denise

From: Yenter, Cindy
Sent: Monday, August 31, 2020 12:34 PM
To: Aasa, Kent
Cc: Maline, Denise; mvm_32_rs@hotmail.com
Subject: watermaster comment, 71-11003 Bitton

WD170 has no objection to this approval.

Jurisdictional for WD71 and 170. WD Flag = 71.

Measurement of this system will be waived, suggest conditions 01H, 196, 197, 198.

These lots not a part of Wo-He-Lo sub, no overlap with the Wo-He-Lo rights 71-31C, 37C, 7011.

*Cindy Yenter
Idaho Dept of Water Resources
Salmon Field Office
102 S Warpath, Salmon ID 83467
cindy.yenter@idwr.idaho.gov
208-742-0655
208-731-0901 cell*



THE JEFFERSON
STAR

THE CHALLIS
Messenger

ADVERTISING RECEIPT

333 Northgate Mile,
Idaho Falls, ID 83401
Ph. (208) 522-1800 Fax: (907) 452-5054

IDWR Southern Region
650 Addison Ave. West
Suite 500
Twin Falls, ID 83301

BILLING DATE: ACCOUNT NO:

08/27/20

12622

AD #	DESCRIPTION	START	STOP	TIMES	AMOUNT
29103	71-11003/72-16986	09/02/20	09/09/20	2	\$171.05

Proof of legal notice
received from
Challis Messenger
8/27/2020 (2 pgs)

Payments:

Date	Method	Card Type	Last 4 Digits	Check	Amount
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Discount: \$0.00
Surcharge: \$0.00
Credits: \$0.00

Gross: \$171.05
Paid Amount: \$0.00

Amount Due: \$171.05

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

71-11003

BITTON PROPERTIES

HC 64 BOX 9951

STANLEY, ID 83278-9603

Point of Diversion SENE S4

T08N R14E CUSTER Coun-

ty Source GROUND WATER

Tributary

Use: IRRIGATION 05/01 to

10/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 08-10-2020

Place Of Use: IRRIGATION

T08N R14E S4 SWNE, SENE

Total Acres: 2

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The decreed minimum stream
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2.0 acres will be applied to the
subordination amounts speci-
fied in the decree for the Wild
& Scenic River listed above.

72-16986

UNITED STATES OF AMERI-

CA ACTING THROUGH

USDI BUREAU OF LAND

MANAGEMENT

ATTN FRED PRICE

1387 S VINNELL WAY

BOISE, ID 83709

Point of Diversion NWNESE

S7 T12N R19E CUSTER

County Source SALMON RIV-

ER Tributary SNAKE RIVER

Use: IRRIGATION 04/01 to

10/31 0.05 CFS

Total Diversion: 0.05 CFS

Date Filed: 07-10-2020

Place Of Use: IRRIGATION

T12N R19E S7 L14(SWNE),

L14(SENW)

Total Acres: 2.5

Application for permit pro-
poses diversion of up to 0.054
cfs from the Salmon River at a
point 6.3 miles south and 2.4
miles west of the intersection
of State Highway 75 and U.S.

We Appreciate Your Business!

AD# 29103

Highway 93 south of Challis. Water will be used for 2.5 acres of irrigation at an adjacent recreation site. This application proposes the diversion and use of water from the Salmon River, a Wild & Scenic River. The decreed minimum stream flow rights for the federal Wild & Scenic Rivers are subordinate to certain categories of water use and to specific amounts of water use established after the minimum stream flow. The water use proposed in this application will benefit from the subordination provision because it is a United States right.

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GARY SPACKMAN,
Director

Published: 9/2, 9/8, 2020
(29103-12622)

Should read 9/2 & 9/9

Will be fixed prior to publishing.